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**1995**

# ***Illinois Register***

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## **Rules of Governmental Agencies**

Volume 19, Issue 37— September 15, 1995

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**Editor's Note:** The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

|                                      |                            |
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| April 14, 1995 - Issue 15: Through   | March 31, 1995             |
| July 14, 1995 - Issue 28: Through    | June 30, 1995              |
| October 13, 1995 - Issue 41: Through | September 30, 1995         |
| January 12, 1996 - Issue 2: Through  | December 31, 1995 (Annual) |



## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Animal Control Act
- 2) Code Citation: 8 Ill. Adm. Code 30
- 3) Section Number: Proposed Action:  
30.10 Amendment  
30.20 Amendment
- 4) Statutory Authority: Animal Control Act (510 ILCS 5) and Sections 9 and 10 of the Illinois Diseased Animals Act (510 ILCS 50/9 and 10)
- 5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to "Division" are changed to "Department".
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 15-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 16, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
Department of Agriculture, State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62734-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public hearing of the Advisory Board of Livestock Commissioners.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Animal control facilities - No adverse impact is expected.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1995
- The full text of the Proposed Rules begins on the next page:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
 CHAPTER 1: DEPARTMENT OF AGRICULTURE  
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 30  
 ANIMAL CONTROL ACT

- Section
- 30.10 Definitions
  - 30.20 Interstate Shipment of Dogs; Health Certificate Required
  - 30.30 Causes for Removal of Administrator or Wardens from Office
  - 30.40 District Boards
  - 30.50 Training of Animal Control Wardens
  - 30.60 Rabies Vaccination Tags; County Accountable for Rabies Tags
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  - 30.150 Claim for Loss of Animals or Poultry Killed or Injured by Dogs
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AUTHORITY: Implementing and authorized by the Animal Control Act (510 ILCS 5) and authorized by Sections 9 and 10 of the Illinois Diseased Animals Act (510 ILCS 50/9 and 10).

SOURCE: Rules and Regulations Relating to the Animal Control Act, filed September 16, 1974, effective September 26, 1974; amended August 19, 1975, effective August 29, 1975; filed December 10, 1976, effective January 1, 1977; codified at 5 Ill. Reg. 10440; amended at 7 Ill. Reg. 1712, effective January 29, 1983; amended at 12 Ill. Reg. 2216, effective January 19, 1988; amended at 16 Ill. Reg. 11751, effective July 8, 1992; amended at 18 Ill. Reg. 14891, effective September 26, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 30.10 Definitions

For the purpose of this Act and these rules, the following definitions shall apply:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

"Confined under the observation of a licensed veterinarian" means confined to an escape-proof building or other enclosure away from other animals and the public, and observed daily by the Administrator or another licensed veterinarian.

"Division" means the Division of Animal Industries of the Illinois Department of Agriculture.

"Escape-proof building or other enclosure" means a building or other enclosure of such strength and structure to keep the confined animal away from other animals and the public.

"Humanely dispatched" means the painless administration of a lethal dose of an agent which shall cause the painless death of an animal as prescribed in the Journal of the American Veterinary Medical Association, January 15, 1993. Said method shall not destroy brain tissue necessary for laboratory examination for rabies. Animals shall be handled prior to administration of the agent in such a manner as to avoid undue apprehension by the animal.

"Official health certificate" means a legible record, made on an official form of the state of origin, or the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, and issued by a licensed veterinarian of the state of origin, a veterinarian in the employ of the Animal and Plant Health Inspection Service, or a veterinarian in the employ of the United States Armed Services, which shows that the dog(s) listed thereon meet the health requirements of the State of Illinois. The official health certificate shall contain the name and address of the consignor; the name and address of the consignee; an accurate description or identification including age, sex and breed of the dog(s) involved; and shall also indicate the health status of the dog(s), including the date(s) of vaccination(s), type of vaccine, name of manufacturer, serial number, and amount of vaccine administered.

"Officially vaccinated" means the inoculation of a dog with a vaccine as set forth in 8 Ill. Adm. Code 30.90 of these rules; administered by a licensed veterinarian by the route and in the amount recommended by the producer of the vaccine and for which a county rabies vaccination tag has been issued and properly recorded on a certificate as prescribed by the Board.

"Program" means the Animal Control Program as organized for the purpose of carrying out the provisions of this Act and the rules pursuant thereto.

"Recognized laboratory" means a laboratory operated by the State Department of Agriculture, the State Department of Public Health, any



## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

land grant university, or other laboratories approved by the Department of Public Health.

"Stray" means an animal which shall be considered a stray according to the ordinances that exist in the county in which the animal is found.

"Straying" means a dog or other animal not on the premises of the owner or not confined or under control by leash or other recognized control methods as set forth in ~~17-2-and-3~~ **under (b) in 8 Ill. Adm. Code 30.140 (b)(1), (2) and (3).**

"Wild animal" means a wolf, coyote, or the offspring of a mating between a wolf or coyote and a dog.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 30.20 Interstate Shipment of Dogs: Health Certificate Required

a) Dogs of any age brought into Illinois shall be accompanied by an official health certificate issued within 30 days of entry, showing the age, sex, breed, and description of each dog; that the dogs in shipment are free from visible evidence of communicable diseases as set forth in Sections 9 and 10 of the Illinois Diseased Animals Act (510 ILCS 50/9 and 10); that they originated in an area not under quarantine because of rabies or if originating in an area under quarantine because of rabies, have obtained prior permission from the Department ~~Division~~ that will be granted by telephoning 217/782-4944 and indicating that the dogs have not been in physical contact with rabid animals; and that all dogs over 16 weeks of age have been vaccinated against rabies as set forth in 8 Ill. Adm. Code 30.90. A copy of the health certificate bearing the approval of the Animal Health Official of the state of origin shall be filed with the Department ~~Division~~.

b) This Part shall not apply to dogs consigned to hospitals, pharmaceutical companies, or licensed research institutions for research or teaching, nor to performing dogs or dogs brought in for a limited period of time for exhibition or breeding purposes and kept under direct control while in Illinois; provided, such performing dogs, dogs for exhibition, or dogs for breeding purposes have been vaccinated against rabies prior to entry into Illinois.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Animal Diagnostic Laboratory Act

2) Code Citation: 8 Ill. Adm. Code 110

3) Section Numbers:

110.10 Amendment  
110.40 Amendment  
110.50 Amendment  
110.70 Amendment  
110.90 Amendment  
110.120 Amendment  
110.140 New Section

4) Statutory Authority: Animal Disease Laboratory Act [510 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: References to "Division" have been changed to "Department". The name of the US Sanitation Monitored Herds has been changed by the USDA to U.S. S. Enteritidis, and therefore that reference has been changed in Section 110.40.

In Section 110.140, at the request of the Illinois Liquor Control Commission, a fee schedule has been established for tests the Commission wants the Department laboratories to conduct.

The determination as to whether a fee is charged because the owner/animals are non-Illinois residents is clarified in Section 110.50. Since the laboratories are operated with tax dollars, it was felt that determination of non-Illinois residency should be based on the location of the entity paying the taxes, hence the owner's location rather than that of the animal.

The Department is in the process of negotiating a break in overnight shipping costs for samples being sent to the laboratories. Once the fees are established, this would reduce the cost to persons submitting samples to the laboratory (Section 110.120)

1.2. Progs, Tripsin Fecal Digestion, and Salmonella serotyping tests are no longer offered by the laboratories (Sections 110.70 and 110.90). The Galesburg laboratory is no longer conducting the electrolyte panel and the test for potassium (Section 110.70(d)). The Springfield laboratory is no longer testing for blue tongue (Section 110.90(d)). The fee for "Other Tests - Complete" (Section 110.70(e)) is being increased to \$20.00 as the fee for bacteriology cultures, which is included under this category, was increased from \$10 to \$15 several years ago, and the Department neglected to raise the fee at that time. A fee for "Trichomonas Transport Media" has been added (Section 110.90(a)). The fee structure Section

## DEPARTMENT OF AGRICULTURE

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110.120(a)) for the "Market Swine Health Checks" has been updated to reflect the current services offered by the Galesburg Laboratory.

- 5) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 3) Does this proposed amendment contain incorporations by reference? No
- 3) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
Department of Agriculture  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Veterinarians, producers of livestock, or anyone requesting laboratory services.

B) Reporting, bookkeeping or other procedures required for compliance: Persons requesting laboratory services must pay the fees being charged for the desired tests or services.

C) Types of professional skills necessary for compliance: Basic

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management.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:



## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER 1: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

## PART 110

## ANIMAL DIAGNOSTIC LABORATORY ACT

| Section | Definitions                       |
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| 110.30  | Payment For Laboratory Services   |
| 110.40  | Tests Not Covered By Fee Schedule |
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| 110.60  | Euthanasia Fees                   |
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| 110.100 | Parasitology Fees                 |
| 110.110 | Toxicology Fees                   |
| 110.120 | Miscellaneous Fees                |
| 110.130 | Meats Chemistry Fees              |
| 110.140 | Liquor Control Commission Fees    |

AUTHORITY: Implementing and authorized by the Animal Disease Laboratory Act [510 ILCS 101].

SOURCE: Adopted and codified at 8 Ill. Reg. 9047, effective July 1, 1984; amended at 9 Ill. Reg. 4471, effective March 22, 1985; amended at 9 Ill. Reg. 19638, effective January 1, 1986; amended at 10 Ill. Reg. 9733, effective May 21, 1986; amended at 11 Ill. Reg. 10153, effective May 15, 1987; amended at 12 Ill. Reg. 3379, effective January 25, 1988; amended at 13 Ill. Reg. 3617, effective April 15, 1989; amended at 14 Ill. Reg. 1907, effective January 19, 1990; amended at 14 Ill. Reg. 3416, effective March 1, 1990; amended at 14 Ill. Reg. 15304, effective September 10, 1990; amended at 16 Ill. Reg. 11416, effective July 1, 1992; amended at 18 Ill. Reg. 1825, effective February 1, 1994; amended at 18 Ill. Reg. 17433, effective December 1, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 110.10 Definitions

- a) "Accession" is one animal or group of animals or samples from the same location, representative of a single disease or disease problem, and received at the laboratory on the same day.
- b) "Division" means the Division of Animal Industries of the Illinois Department of Agriculture.
- c) "Specimen" is any animal or plant tissue or substance to which a test or procedure is applied.

## DEPARTMENT OF AGRICULTURE

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- c) "C" indicates the test is performed at the Animal Disease Laboratory--Centralia.
- d) "G" indicates the test is performed at the Animal Disease Laboratory--Galesburg.
- e) "S" indicates the test is performed at the State-Federal Serology Laboratory, Springfield.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 110.40 Tests Not Covered By Fee Schedule

- a) No fee shall be charged for diagnostic tests required by Illinois law or programs herein listed (i.e., testing for bovine brucellosis, swine brucellosis, pullorum-typhoid, equine infectious anemia, U.S. S. Enteritidis 0-5--Sanitation--Monitored Flocks and pseudorabies). However, a charge shall be made for requested end titers on pseudorabies, unless the testing is approved for diagnostic purposes by the United States Department of Agriculture or by the Department Division. A fee as set forth in Section 110.90 shall be charged on screening samples at the dilution of 1:2 for pseudorabies.
- b) The Department Division shall approve testing for end titers on pseudorabies without charge when the herd is in a special state supervised testing program.
- c) See 8 Ill. Adm. Code 110.90 for information on specialty testing situations.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 110.50 Minimum Fees

- a) A minimum accession fee of \$5 per accession shall be charged on all accessions originating from Illinois animals, with the exception of samples for trichinosis testing for which the minimum accession fee is \$1. If such fees for the individual tests exceed the minimum fee, no minimum fee shall be charged. Persons submitting specimens for which there are no charges for the laboratory procedure shall be exempt from the minimum fee.
- b) The necropsy fee is \$40 per accession up to four animals for all species and cadavers submitted where more than one test is needed, with an additional \$15 for each additional animal. Poultry are exempt from the additional charge for each animal over four. If multiple tissue specimens are submitted where more than one test is needed, the fee is \$35 per accession for up to four animals with an additional \$15 for each additional animal. The necropsy fee and multiple tissue specimens fee will include a test in pathology, microbiology, parasitology and toxicology as indicated by the necropsy. These fees

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do not include electron microscopy examination, toxicologic screens, water and feed analysis, serology or herd surveys. In cases where only a necropsy is performed without any tests, the fee is \$20 plus the disposal fee. The fee for a cosmetic necropsy is \$200 (cases where the owner wants the carcass back).

c) Electron microscopy and toxicologic tests (other than a screen for metals and pesticides) shall be performed only after consultation with and with approval from the person who requested the laboratory services at the fees set forth in this Part.

d) All fees, including the minimum accession and necropsy fee, shall be doubled on all out-of-state owners ~~animals~~, unless a specific charge is noted or the sample is referred from another state diagnostic laboratory at which time only the in-state fee will be charged.

e) Serologic tests on paired, acute and convalescent specimens will be billed as one accession at the fee set forth in this Part.

f) Accessions submitted as "rush priority" specimens shall be charged at twice the normal rate. This charge shall apply to any submission requesting service at a rate faster than the normal laboratory routine turnaround time for the requested test (e.g., before the regularly scheduled day, before other samples or on days requiring additional personnel time such as weekends or holidays). For cases where there is no in-state fee (i.e., pseudorabies or bovine or swine brucellosis), the fee shall be as for out-of-state samples.

g) The fee for accessions up to four animals or multiple tissues from up to four animals for the following work-ups will be as indicated, with an additional \$15.00 for each additional animal. Poultry are exempt from the additional charge for each additional animal over four.

- 1) Porcine Abortion Work-up..... \$50.00 C, G
- 2) Bovine Abortion Work-up..... 75.00 C, G
- 3) Respiratory or Enteric  
Diagnostic Work-up..... 50.00 C, G

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 110.70 Clinical Pathology Fees

The following fees apply to those specimens submitted where a necropsy is not involved: with a minimum total fee of \$5.00:

## a) Hematology:

- 1) Complete Blood Count (RBC, Hb, Ht, WBC, Diff.).....\$ 8.00 C, G
- 2) Erythrocyte..... 3.00 C, G
- 3) Leukocyte..... 3.00 C, G
- 4) Bandwidth Key..... 5.00 C, G
- 5) Hemoglobin..... 3.00 C, G
- 6) Hematocrit..... 3.00 C, G
- 7) Differential..... 3.00 C, G

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

|   |                   |
|---|-------------------|
| 3) 5-B-Prep- <del>tapes-erythematous</del> .....          | 10.00 C           |
| 3) 9) Eosinophil Count--Total.....                        | 5.00 C            |
| 3) 10) Stippling.....                                     | 3.00 C, G         |
| 10) 11) Fibrinogen.....                                   | 3.00 G            |
| 11) 12) Erythrocyte Indices.....                          | 3.00 C            |
| 12) 13) Shorr Stain (canine distemper).....               | 5.00 C, G         |
| 13) 14) Hemabartonella--Acridine Orange.....              | 5.00 C            |
| 14) 15) Erythrocyte Parasites--Wright's Giemsa Stain..... | 5.00 C, G         |
| 15) 16) Erythrocyte Sedimentation Rate.....               | 5.00 C            |
| 16) 17) Blood Compatibility Crossmatch.....               | 7.00 C            |
| 17) 18) Pandey (Qualitative Protein).....                 | 3.00 C            |
| 18) 19) Bone Marrow, Collection and Examination.....      | 20.00 C           |
| 19) 20) Bone Marrow Examination.....                      | 5.00 C, G         |
| 20) 21) Microfilaria.....                                 | 3.00 C, G         |
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| 1) Routine Chemistry and Microscopic Examination.....     | 5.00 C, G         |
| 2) Urine Urobilinogen, Qualitative.....                   | 3.00 G            |
| 3) Urine Na.....  | 3.00 C            |
| 4) Urine K.....   | 3.00 C            |
| c) Enzymology   |                   |
| 1) SGOT (serum glutamic oxalacetic transaminase).....     | 3.00 C            |
| 2) SGT (serum glutamic pyruvic transaminase).....         | 3.00 C            |
| 3) LDH (lactic dehydrogenase).....                        | 3.00 C            |
| 4) Alkaline Phosphatase.....                              | 3.00 C            |
| 5) Lipase.....  | 5.00 C            |
| 6) Amylase.....   | 5.00 C            |
| 7) Sorbitol dehydrogenase.....                            | 5.00 C            |
| 8) Arginase.....  | 5.00 C            |
| 9) <del>Trypsin-Fecal-Digestion</del> .....               | <del>5.00 C</del> |
| d) Chemistry  |                   |
| 1) Bilirubin--Total and Direct.....                       | 10.00 C           |
| Total Only.....   | 5.00 C            |
| Direct Only.....  | 5.00 C            |
| 2) Electrolytes (Ca, P, Mg, K, and Na).....               | 12.00 C, G        |
| 3) Calcium.....   | 3.00 C, G         |
| 4) Chloride.....  | 3.00 C            |
| 5) Cholesterol, Total.....                                | 3.00 C            |
| 6) Creatinine.....  | 3.00 C            |
| 7) Glucose.....   | 3.00 C            |
| 8) Phosphorus.....  | 3.00 C, G         |
| 9) Lactic Acid.....                                       | 3.00 C            |
| 10) Potassium.....  | 3.00 C, G         |
| 11) Total Protein.....                                    | 3.00 C, G         |
| 12) Albumin.....  | 3.00 C            |
| 13) Sodium.....   | 3.00 C, G         |
| 14) Blood Urea Nitrogen.....                              | 3.00 C            |
| 15) Uric Acid.....  | 3.00 C            |
| 16) Zinc.....   | 3.00 C            |



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|   |                             |
|---|-----------------------------|
| 17) Magnesium.....                                  | 3.00 C                      |
| 18) Copper.....                                     | 3.00 C                      |
| 19) Iron.....                                       | 3.00 C                      |
| e) Other Tests                                      |                             |
| 1) Calculi Analysis, Qualitative.....               | 10.00 C                     |
| 2) Semen Examination.....                           | 10.00 C, G                  |
| 3) Cytology Transudate/Exudate                      |                             |
| Cytology Examination Only.....                      | 5.00 C, G                   |
| Complete (i.e., Count, SG, TP, Sugar, Culture)..... | 20.00 <del>15.00</del> C, G |
| 4) Spinal Fluid (Cytology, SG, TP).....             | 10.00 C, G                  |

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 110.90 Microbiology Fees

The following are the fees for microbiology:

|  |              |
|--|--------------|
| a) Bacteriology, Mycoplasma and Fungi                            |              |
| 1) Aerobic or anaerobic culture without sensitivity testing..... | 10.00 C, G   |
| 2) Aerobic culture with sensitivity testing.....                 | 15.00 C, G   |
| 3) Clostridium perfringens serotyping.....                       | 5.00 G       |
| 4) Milk samples for mastitis evaluation                          |              |
| 1-4 specimens.....   | 15.00 C, G   |
| (additional specimens, each at).....                             | 2.00 C, G    |
| Wisconsin mastitis test  |              |
| 1-10 specimens, each.....  | 2.00 C       |
| additional specimens, each at).....                              | 1.00 C       |
| 5) Leptospirosis--6 serotypes                                    |              |
| Microtiter test--per specimen.....                               | 2.00 C, G    |
| 6) Canine brucellosis--per specimen.....                         | 5.00 C, G, S |
| 7) Fluorescent Antibody Test (FA).....                           | 10.00 C, G   |
| 8) Escherichia coli serotyping.....                              | 3.00 C       |
| 9) Campylobacter (culture).....                                  | 4.00 C, G    |
| 10) Salmonella-Serotyping.....                                   | 1.00 e       |
| 11) Salmonella isolation using enrichment media.....             | 6.00 C, G    |
| 12) Hemophilus (culture).....                                    | 3.00 C, G    |
| 13) Yersinia (culture).....                                      | 2.00 C, G    |
| 14) Listeria (culture).....                                      | 4.00 C, G    |
| 15) Haemophilus edwardsii (SEM).....                             | 4.00 C, G    |
| 16) Spirochetes (swine dysentery--Treponema sp.).....            | 3.00 C, G    |
| (each's Bacillus (first specimen).....                           | 7.00 C, G    |
| each additional specimen).....                                   | 4.00 C, G    |
| 17) Prepare and Supply Transport Media (per tube).....           | 1.00 C, G    |
| 18) Prepare Culture for Bacterium production per organism.....   | 2.00 C, G    |
| 19) Mycology Testing.....  | 5.00 C, G    |
| 20) Microscopic examination.....                                 | 3.00 C       |
| Bovine Leukosis (BLV-AgID) (1-5 specimens, each).....            | 1.00 C, G    |

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|--|----------------|
| 22) E. Coli or Metritis (1-4 specimens).....                       | 15.00 C, G     |
| (each additional specimen).....                                    | 2.00 C, G      |
| 23) Trichomonas transport media.....                               | 1.00 C, G      |
| c) Virology  |                |
| 1) Electron Microscopy--fecal.....                                 | 15.00 G        |
| 2) Pseudorabies Serology (positive or negative).....               | no charge C, G |
| Pseudorabies Serology Out-of-State.....                            | 3.00 C, G      |
| Pseudorabies Serology (positive or negative) and end titer.....    | 3.00 C, G      |
| Pseudorabies Serology (request for screen at dilution of 1:2)..... | 3.00 C, G      |
| 3) Fluorescent Antibody Test (each disease).....                   | 10.00 C, G     |
| 4) Rabies.....   | 5.00 C, G      |
| 5) Virus Isolation in Cell Culture                                 |                |
| (1 specimen).....  | 15.00 C, G     |
| Each additional specimen.....                                      | 10.00 C, G     |
| 6) Viral Serology (each disease)                                   |                |
| 1-5 specimens, each.....   | 3.00 C, G      |
| Each additional specimen.....                                      | 1.00 C, G      |
| 7) Feline Leukemia Virus.....                                      | 10.00 C        |
| 8) Feline Infectious Peritonitis (F.I.P.).....                     | 5.00 C, G      |
| 9) Canine parvo-virus (ELISA) fecal.....                           | 5.00 C, G      |
| 10) Canine parvo-virus serum.....                                  | 5.00 C         |
| 11) Canine distemper on serum.....                                 | 5.00 C         |
| 12) Rota-virus on fecal.....                                       | 10.00 C        |
| 13) Semen testing (export).....                                    | 12.00 C        |
| 14) Swine enterovirus (8 serotypes).....                           | 12.00 C        |
| 15) FeLV-FeLT.....   | 15.00 C        |
| 16) Porcine fetal fluid IgG.....                                   | 3.00 G         |
| 17) Feline lentivirus (FeLV).....                                  | 10.00 C        |
| 18) Encephalomyocarditis   |                |
| 1-5 specimens, each.....   | 3.00 C, G      |
| Each additional specimen.....                                      | 1.00 C, G      |
| PRRS (screening 1:1).....  | 2.00 G         |
| PRRS end titer.....  | 4.00 C, G      |
| c) Chlamydia Isolation in Cell Culture.....                        | 15.00 C, G     |
| d) Miscellaneous serology  |                |
| 1) Toxoplasmosis.....  | 5.00 C         |
| 2) EIA-AGID.....   | 2.50 S         |
| 3) Mare Immunological Pregnancy Test                               |                |
| (35-60 days post-service).....                                     | 15.00 C        |
| 4) Aequian Disease-Mix (immunoelectrophoresis).....                | .50 S          |
| 5) Out-of-State Brucellosis serology.....                          | .50 C, G, S    |
| 6) Brucellosis testing other than bovine, porcine and canine.....  | 3.00 C, G, S   |
| 7) Bluetongue (1-5 specimens, each).....                           | 3.00 C, G, S   |
| Each additional specimen.....                                      | 2.00 C, G, S   |
| 8) Bovine Leukosis (BLV-AgID) (1-5 specimens, each).....           | 1.00 C, G      |

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|     |   |           |
|-----|---|-----------|
| 9)  | (Each additional specimen).....   | 1.00 C, S |
| 10) | Vesicular stomatitis.....   | 3.00 C    |
|     | Complement Fixation Serology  |           |
|     | (1-5 specimens, each).....  | 3.00 C    |
|     | (Each additional specimen).....   | 1.00 C    |
|     | Note: The Complement Fixation Serology tests include testing for anaplasmosis, and chlamydia. |           |

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 110.120 Miscellaneous Fees

|    |  |                              |
|----|--|------------------------------|
| a) | Swine health checks at slaughter facilities:<br>Reproductive-and-serology-for-sows<br>11-5-head.....                     | 25.00                        |
|    | each-additional-animal.....  | 4.00                         |
|    | Market swine health check per head with a minimum of 10 head 112-head-maximum.....                                       | 5.00                         |
|    | (Contact the Galesburg Laboratory for information)   |                              |
| b) | Water potability test (Coliform and Enterococcus--Millipore Method and Nitrates).....                                    | 8.00 C                       |
| c) | Return of shipping container.....  | current postal rate C, G, S  |
| d) | Field trip by Department laboratory personnel to take specimens.....   | 50.00 C, G                   |
| e) | Cremation (Under 50 pounds).....   | 50.00 G                      |
| f) | 50 pounds and above, each additional pound.....  | 1.00 G                       |
|    | Report of results by facsimile (FAX) (first page)....  | 5.00 C, G, S                 |
|    | each additional page.....  | 1.00 C, G, S                 |
| g) | Handling fee for sending specimens to out-of-state laboratories.....   | 5.00 C, G, S                 |
| n) | Lysine.....  | 40.00 C                      |
| i) | Amino acids.....   | 100.00 C                     |
| j) | Trihalomethanes (THM's).....   | 75.00 C                      |
| k) | Volatile Organic Compounds.....  | 300.00 C                     |
| l) | Disposal Fee: (when lab test have not been conducted, a disposal fee will be charged in addition to any cremation costs) |                              |
|    | Under 50 pounds.....   | 5.00 C, G, S                 |
|    | 50 pounds to 100 pounds.....   | 10.00 C, G, S                |
|    | Over 100 pounds.....   | 15.00 C, G, S                |
| m) | Overnight shipping.....  | current postal rate C, G, S  |
| n) | Shipping containers.....   | current market price C, G, S |

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 110.140 Liquor Control Commission Fees

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|    |   |       |
|----|---|-------|
| a) | Visual adulteration.....  | 5.00  |
| b) | Visual adulteration and volume.....   | 10.00 |
| c) | Adulteration screen (proof, solids, total acids, organic color, color insects, volume)..... | 10.00 |
| d) | Adulteration screen and fusel oils.....   | 10.00 |

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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1) Heading of the Part: Animal Welfare Act

2) Code Citation: 8 Ill. Adm. Code 25

3) Section Numbers: Proposed Action:

25.20 Amendment

25.30 Amendment

25.40 Amendment

25.50 Amendment

25.90 Amendment

25.110 New Section

25.115 Amendment

25.130 New Section

25.140 New Section

4) Statutory Authority: Animal Welfare Act [225 ILCS 605] and Illinois Diseased Animals Act [510 ILCS 50]

5) A Complete Description of the Subjects and Issues Involved: Cites to the Code of Federal Regulations have been updated to reflect the most current printed version of these documents. Due to reorganization within the Department, all references to "Division" have been changed to "Department".

In Section 25.20, amendments are made to clarify the storage of waste materials in order to control vermin and insects. A clarification was also made to address drainage to comply with local zoning ordinances.

In Section 25.115, regulations are developed for specific services provided by guard or sentry dogs regarding the care and services provided by such service (see P.A. 89-178, effective July 19, 1995). This includes those out of state businesses that provide such services for patrons in Illinois.

All references to "pound" are changed to "animal control facility" in accordance with P.A. 89-178, effective July 19, 1995 (Section 25.130).

The Department has developed regulations in Section 25.140 regarding foster homes for animals including licensing and their activities in conjunction with licensed animal shelters operated by not-for-profit corporations (see P.A. 89-178, effective July 19, 1995).

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Will this rulemaking contain an automatic repeal date? No

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9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
Department of Agriculture  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Not-for-profit animal shelters; businesses offering guard or sentry dog services; animal control facilities; animal shelters; local law enforcement agencies; and fire departments.

B) Reporting, bookkeeping or other procedures required for compliance: New Section 25.115 outlines requirements for sentry and guard dog services. Rulemaking will require record keeping by new licensees. Files will be kept by local law enforcement agencies and fire departments. For their personnel's awareness and safety, concerning assignments of guard and sentry dogs within the area, and those files will be made available to Department investigators on request if necessary. New Section 25.140 will require licensure and payment of fees by not-for-profit corporations operating foster homes.

C) Types of businesses, small municipalities and not-for-profit corporations affected: Businesses offering immunizations, health exams, and spaying of female animals or neutering of male animals to assure that healthy animals

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are being utilized for guard and sentry dog services.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

## PART 25

## ANIMAL WELFARE ACT

## Section

|        |   |
|--------|---|
| 25.10  | Definitions   |
| 25.15  | Incorporations By Reference                                 |
| 25.20  | Buildings and Premises                                      |
| 25.30  | General Care of Animals                                     |
| 25.40  | Dogs Brought into Illinois                                  |
| 25.50  | Shipment of Mammals and Birds                               |
| 25.60  | Health of Animals at Time of Release                        |
| 25.70  | Department May Restrict The Sale of Animals                 |
| 25.80  | Quarantine  |
| 25.90  | Records   |
| 25.100 | Consent Statement and Inspection                            |
| 25.110 | Animals Prohibited from Sale                                |
| 25.115 | Guard and Sentry Dogs                                       |
| 25.120 | Boarding and Training                                       |
| 25.130 | Animal Control Facilities <u>Pounds</u> and Animal Shelters |
| 25.140 | Foster Homes  |

AUTHORITY: Implementing and authorized by the Animal Welfare Act (225 ILCS 605) and the Illinois Diseased Animals Act (510 ILCS 50).

SOURCE: Regulations Relating to the Animal Welfare Act, filed May 17, 1974, effective May 27, 1974; amended October 6, 1976, effective October 16, 1976; codified at 5 Ill. Reg. 10438; amended at 7 Ill. Reg. 1724, effective January 28, 1983; amended at 12 Ill. Reg. 8265, effective May 2, 1988; amended at 13 Ill. Reg. 3628, effective March 13, 1989; amended at 18 Ill. Reg. 14898, effective September 26, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 25.20 Buildings and Premises

- a) All buildings and premises shall be maintained in a sanitary condition and the licensee shall:
- 1) Have covered, leak-proof, containers available for storage of waste materials before disposal to control vermin and insects. Such containers shall be maintained in a sanitary condition equipment--available--for--proper--storage--or--disposal--of--waste material--to--control--vermin--and--insects.
  - 2) Dispose of dead animals in compliance with the Illinois Dead Animal Disposal Act (225 ILCS 610) and rules enacted pursuant to



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that law (8 Ill. Adm. Code 85). Compliance with this State Law shall not exempt licensee from compliance with local ordinances.

- 3) Take effective control measures to prevent infestation of animals and premises with external parasites and vermin.
- 4) Provide water from a source having sufficient pressure to properly sanitize and clean kennels, runs, equipment, and utensils.
- 5) Provide hand washing facilities.
- c) All buildings shall be constructed so as to provide adequate shelter for the comfort of the animals and shall provide adequate facilities for separation of diseased animals to avoid exposure to healthy and salable animals.
- c) Floors of buildings housing or displaying animals shall be of permanent construction to enable thorough cleaning and sanitizing. Dirt and unfinished wood floors are unacceptable. Cleaning shall be performed daily, or more often if necessary, to prevent any accumulation of debris, dirt or waste.
- d) Cages shall be constructed of a material that is impervious to urine and water and able to withstand damage from gnawing and chewing.
  - 1) The cages must be cleaned and sanitized at least once daily, or more often if necessary.
  - 2) All empty cages shall be kept clean at all times.
  - 3) Cages shall be of sufficient size to allow the animal to comfortably stand, sit, or lie, and offer freedom of movement.
  - 4) An ambient temperature as defined in the rules for the Federal Animal Welfare Act (9 CFR 3.2; 1995 +994) shall be maintained for warmblooded animals. In the case of coldblooded animals, the temperature that is compatible to the well-being of the species shall be maintained.
  - e) Runs shall be constructed of material of sufficient strength and design to confine the animal(s).
    - 1) They shall be kept in good repair and condition.
    - 2) For new construction or remodeling, the licensee shall provide runs surfaced with concrete or other impervious material.
    - 3) Surface of the run shall be designed to permit the surface to be cleaned and kept free from excessive accumulation of animal waste.
    - 4) Provisions must be made for adequate drainage, including gutters and discharge of any fluid or content into a sewer, septic tank or filter field, and shall comply with any local zoning.
  - f) Cages or aquariums for housing of small animals, birds, or fish shall provide space not less than 2 1/2 times the body volume of living creatures contained therein.
  - g) If animals are group-housed, they shall be maintained in compatible groups without overcrowding. No female dog or cat in estrus shall be placed in a pen with male animals, except for breeding purposes.

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## Section 25.30 General Care of Animals

- a) All persons or establishments licensed under this Act shall comply with all Sections of the Humane Care for Animals Act [510 ILCS 70].
- b) Sufficient clean water and fresh food shall be offered to each animal daily as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.5 - 3.7; 1995 +994). In the case of young animals, they shall be fed more than once daily. Reptiles, fish or amphibians shall be fed and cared for in accordance with the eating patterns and environmental conditions compatible with each individual species.
- c) The licensee or his representative shall be present for general care and maintenance of the animals at least once daily.
- d) Aquariums containing fish shall be kept in a clean healthful condition. Live algae shall not be considered an unhealthy condition. Any dead fish shall be removed from aquariums daily.
- e) Adult cats shall be provided with litter pans at all times. The pans shall be cleaned and sanitized at least once daily or more often if necessary.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 25.40 Dogs Brought into Illinois

- a) Dogs of any age brought into Illinois shall be accompanied by an official health certificate issued within 30 days prior to entry, showing the age, sex, breed, and description of each animal; that the animals in shipment are free from visible evidence of communicable diseases; that they originated in an area not under quarantine because of rabies; and that all animals over 16 weeks of age have been vaccinated against rabies as set forth in Section 30.90 of the rules for the Illinois Animal Control Act (8 Ill. Adm. Code Part 30). A copy of the health certificate bearing the approval of the Animal Health Official of the state of origin shall be filed with the Department Division.
- b) "This rule shall not apply to dogs consigned to hospitals, pharmaceutical companies, or licensed research institutions for research or teaching, not to performing dogs or dogs brought in for a limited period of time for exhibition or breeding purposes and kept under direct control while in Illinois."\*

AGENCY NOTE: Quoted from Section 30.10 of the rules for the Animal Control Act (8 Ill. Adm. Code Part 30).

Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_

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## Section 25.50 Shipment of Mammals and Birds

- a) Animals shall be transported in crates constructed of a smooth, durable material which is easily cleaned and shall:
  - 1) Have a solid floor which may have a false bottom above it.
  - 2) Be so constructed as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.11 - 3.17; 1995 1994) as to provide maximum safety for the particular animal or animals being transported.
  - 3) Have openings on 2 sides and the top to assure adequate ventilation.
- b) In all cases, the crates shall be large enough to provide space for the animals to lie down in an extended position and to allow ease of movement when standing or turning around as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.11 - 3.17; 1995 1994). When the temperature is over 85° F., increased space shall be provided within reason.
- c) The crates shall be cleaned before use for each trip.
- d) Food and water containers shall be cleaned and sanitized before each trip.
- e) If bedding is used it shall be clean, dry, and relatively dust-free.
- f) Animals in transit for 4 or more hours shall be offered food 2 hours before loading and fresh water about 30 minutes before loading.
- g) The person or persons responsible for the welfare of the animal or animals while in transit shall:
  - 1) Offer the animals food at least once each 24 hours, except that newly weaned young shall be offered suitable food at 4-hour intervals.
  - 2) Offer all animals water at 12-hour intervals at least, except that water shall be offered at 4-hour intervals when the temperature reaches 90° F.
  - 3) Clean the crate or crates at least every 24 hours and, if bedding is used, shall provide clean bedding.
  - 4) Inspect each animal at 4-hour intervals, or oftener.
  - h) No female obviously near parturition shall be transported.
  - i) Trucks transporting animals shall provide protection from the sun in hot weather, and protection from cold weather. Adequate ventilation shall be provided in hot weather, and the trucks shall be draft-free in cold weather. Provisions shall be made for warming an area carrying weaned young if the temperature falls below 50° F., and for unweaned young if the temperature falls below 65° F.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 25.90 Records

- a) Record of each dog, cat or non-human primate sale shall be maintained

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- by the licensee for a minimum period of 12 months after date of sale or transfer of animal, and shall include the source of animal, date of sale, description and sex of animal sold, and the name and address of purchaser. Records of sales of small mammals, birds, and fish not required.
- b) If record of prophylactic medication is used in advertisement or is furnished the purchaser or person acquiring an animal, specific information regarding type, amount, and date of prophylactic medication shall be kept by the licensee and shall become a part of the retail sales record.
- c) The licensee or his representative shall furnish the purchaser a written statement at the time of sale. The statement shall show:
  - 1) Date of sale.
  - 2) Name, address, and telephone number of licensee.
  - 3) Name, address, and telephone number of purchaser.
  - 4) Breed and description of dog, cat or non-human primate.
  - 5) Prophylactic immunizations and dates administered.
  - 6) Internal parasite medication(s) and date(s) administered.
  - 7) Guarantee, if offered; if none, so state. ~~At~~ This information may be recorded on Department ~~Division~~ Form PS-5 (Animal Welfare Release Statement), or on a similar form prepared by the licensee and approved in advance by the Department.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 25.110 Animals Prohibited from Sale

- a) Licensees shall not offer skunks for sale as pets as prescribed in Section 3.25 of the Wildlife Code (520 ILCS 5/3.25).
- b) Licensees shall not offer for sale those animals the ownership of which would constitute a violation of Section 1 of the Illinois Dangerous Animals Act (720 ILCS 585/1). These include the following animals: lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, bear, wolf or coyote, or any poisonous or life-threatening reptile. A life-threatening reptile is any member of the crocodilian family or any constricting snake six feet or over in length, such as boa, python, and anaconda.
- c) Licensees shall not possess or offer for sale turtle or viable turtle eggs which would constitute a violation of Section 264 of the Public Health Service Act (42 U.S.C.A. 264; 1995 1994), the rules for that Act (21 CFR 1240.62; 1995 1994) and Section 3372 of the Lacey Act (16 U.S.C.A. 3372; 1995 1994).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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**Section 25.115 Guard and Sentry Dogs**

Guard and sentry dog services shall comply with all provisions of the Illinois Humane Care for Animals Act [510 ILCS 70] and the Illinois Animal Control Act [510 ILCS 5] relating to the care the animals receive when stationed at a point away from the licensed facility as well as at the facility. In addition to the general content of 510 ILCS 70 and 510 ILCS 5, the dog services shall comply specifically with the following:

- a) Any animal utilized for guard or sentry dog purposes shall be immunized against distemper, hepatitis, leptospirosis, and parvovirus, and a current and valid certificate of these immunizations shall be retained on file at the facility. This is in addition to the mandatory rabies immunization as required pursuant to the Illinois Animal Control Act.
- b) Any animal utilized or maintained as a guard or sentry dog shall be in a physically healthy condition by gross observation and free from any apparent disease or internal or external parasitic condition. Any animal that the Department has reasonable cause to believe is injured, sick, diseased, unwell, or malnourished or constitutes a danger to the public health and safety may be ordered to be removed from the premises and restricted from use until the animal is examined by a licensed veterinarian and provided the recommended treatment, if deemed to be necessary. A statement will be retained on file and be available for review by Department representatives. Any animal shall be restricted from use until a statement attesting to its satisfactory condition is received from the licensed veterinarian and such statement relayed to the Department. Every dog currently used as a guard dog or sentry dog shall be examined and certified for health within 30 days after the effective date of these regulations. Any new animal purchased or obtained before being stationed at any point shall be examined by a veterinarian and receive the necessary immunizations at least 72 hours before use as a guard or sentry animal.
- c) All animals utilized for guard or sentry dog service shall have the proper current licenses and tags affixed to its collar, harness or other device and have a fluorescent medallion affixed to signify the animal as having such a designation and purpose.
- d) No person shall keep, use, or maintain a guard dog or sentry dog on any premises unless a warning sign is posted in plain view at each gate or entrance to the premises. The signs shall include the message "WARNING: GUARD DOG ON PREMISES" in bold print and shall have the name of the guard dog service or other responsible person and a 24-hour emergency telephone number printed below the warning.
- e) No person shall keep, use, or maintain a guard dog or sentry dog on any premises unless the dog is provided full access to an enclosed building, dog house, or similar shelter. If more than one animal is utilized for a guard or sentry dog at one location, each must be furnished adequate shelter. The shelter must:
  1. be constructed in a manner that prevents the dog from

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the elements.

- 2) Have a floor off the ground and be cleaned and maintained in a manner to assure the best possible sanitary condition.
- 3) Be of adequate size to accommodate the number and size of dogs required to utilize the prescribed housing. A shelter will be presumed to be of adequate size if the dog has freedom to sit, stand, and lie in comfort.
- 4) If the structure is not radiantly heated, it shall have a sufficient quantity of suitable bedding material such as hay, straw, cedar shavings, or the equivalent to provide insulation and protection against cold and dampness for comfort.
- 5) The shelter shall be placed in such location or protected to prevent wind and the other elements from injuring the contained animal's health.
- 6) No person shall keep, use or maintain a guard dog or sentry dog on any premises unless the dog has access to water at all times with ice not being considered as water, and:
  - 1) if the water is kept in a container or pail, the water is kept in an area to prevent contamination and spillage and replaced with fresh water at least once each calendar day; or
  - 2) if the water is provided by an automatic or demand device, the water supply to the device is on 24 hours each day.
- 7) No person shall keep, use, or maintain a guard dog or sentry dog on any premises unless the dog is provided sufficient quantities of dog food to maintain proper body weight and good general health. The food shall be kept in a suitable container within viewable range without the need to enter the premises out kept in an area to prevent tampering, contamination or spillage. Fresh food shall be placed in a clean container at least once each calendar day. Spoiled or contaminated food shall be disposed of in a proper manner.
- 8) Each guard dog service shall notify by mail the fire station and police station closest to the premises where the dog will be on duty not more than 15 days before a dog is sent on an assignment, if the guard dog service knows it will be providing services at that time. If a guard dog service first becomes aware that a dog will be sent on an assignment less than 15 days before the guard dog service will be providing services, the guard dog service shall notify in person the fire station and police station closest to the premises where the dog will be on duty within 24 hours after becoming aware of the assignment. The local law enforcement agency and fire department shall maintain a file on these assignments, and each file shall contain a manned 24-hour emergency telephone number in the event the premises must be entered for police or fire reasons. If a pager number or answering device is used, a response shall be received within 30 minutes to comply with the named emergency assignment. The local law enforcement agency and fire department shall make these files available to Department investigators and approved humane

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1) Each guard dog or sentry dog shall, whenever the dog is kept on actual duty, be visited by a dog handler at least once daily to insure that the dog's physical condition, its surroundings, and its food and water supply are adequate as specified in this Section and if inadequate the dog handler shall do whatever may be necessary to correct or remedy the situation. The dog handler shall be either the owner of, or be employed by or under contract to, the guard dog or sentry dog service that placed the dog on assignment.

2) Whenever a dog subject to this Section is being transported anywhere, it shall be well secured in a humane manner as will reasonably prevent its possible escape. When animals are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around and provide maximum safety and protection to the animals. No guard dog or sentry dog shall be transported in the trunk of a car or on open bed trucks.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 25.130 Animal Control Facilities-Pounds and Animal Shelters

Persons licensed to operate Animal Control Facilities Pounds and Animal Shelters shall comply with the following rules in addition to the other rules already prescribed.

- Licensee shall make a record of each animal received, including the date it was received, the source, and the eventual disposition.
- Approved equipment as described in the Journal of the American Veterinary Medical Association, 930 North Meacham Road, Schaumburg, Illinois 60196 (January 15, 1993) shall be used for euthanasia.
- Licensee shall accept any animal for which the person wishing to dispose of the animal is willing to sign an affidavit of ownership giving his name, address, telephone number, reasons for wishing to dispose of the animal, and description of the animal, including distinguishing marks and pertinent medical information, if any.
- Any animal presented to an animal control facility a-pound or shelter in an injured, diseased, or ill condition shall be examined by and, if feasible, treated by a licensed veterinarian. If the veterinarian deems that, for humane reasons, the animal should be euthanized, his recommendations for euthanasia shall be followed.
- Licensee operating an animal control facility a-pound for a municipality or other political subdivision shall, in a conspicuous place at the establishment, post the hours the facility will be open with an attendant on duty to release estrayed pets back to their owner. Any expense incurred during the period of impoundment shall be paid by the owner prior to release of the impounded animal.

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(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 25.140 Foster Homes

The licensed animal shelter shall be responsible for submission of the application and payment of the required fee prior to utilizing a designee as a foster home. The following requirements shall be complied with and will be the shelter's obligation:

- No more than four animals (dogs or cats) shall be maintained at a foster home location at any one time.
- The animals held at the foster home shall be afforded a clean environment and the home shall comply with all provisions of the Illinois Humane Care for Animals Act (510 ILCS 701).
- The animals held for adoption shall be segregated from any personally owned pets.
- Records for the animals shall be available for review by Department personnel upon request and shall be retained at the animal shelter for two years.
- The foster home shall be accessible for general observation by Department personnel for compliance with sanitation and the quality of care being afforded the animals.
- Any dog over four months of age shall be vaccinated for rabies and the certificate of vaccination will be transferred to the person adopting the dog.
- No animals shall be released to an adoptive owner until provisions have been completed for spaying of females or neutering of males.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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1) Heading of the Part: Bovine Brucellosis2) Code Citation: 8 Ill. Adm. Code 753) Section Numbers: Proposed Action:

75.5 Amendment  
 75.10 Amendment  
 75.15 Amendment  
 75.20 Amendment  
 75.50 Amendment  
 75.60 Amendment  
 75.70 Amendment  
 75.80 Amendment  
 75.90 Amendment  
 75.110 Amendment  
 75.120 Amendment  
 75.130 Amendment  
 75.140 Amendment  
 75.160 Amendment  
 75.170 Amendment  
 75.180 Amendment  
 75.190 Amendment  
 75.200 Amendment

4) Statutory Authority: Illinois Bovine Brucellosis Eradication Act [510 ILCS 30]5) A Complete Description of the Subjects and Issues Involved: Cites to the Code of Federal Regulations and the Brucellosis Eradication Uniform Methods and Rules have been updated to reflect the most current printed version of these documents. Due to reorganization within the Department, all references to "Division" have been changed to "Department".

The lowering of the age for retesting of vaccinated dairy cattle has been amended to conform with the change in the statute (see P.A. 89-154, effective July 19, 1995).

Methods of identification of cattle are being clarified to include ear tags, microchips, and brands in several Sections. This amendment provides producers with alternative methods of identifying their livestock as many of the breed associations have adopted these methods of livestock identification.

Sections 75.160 and 75.180 are being amended as there is no brucellosis infection in Class Free States or free countries so there is no epidemiological reason to require female beef cattle over 18 months or dairy breeding cattle entering Illinois to have a negative test for

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1) Will this proposed rule replace an emergency rule in effect? No2) Does this rulemaking contain an automatic repeal date? No3) Does this proposed amendment contain incorporations by reference? Yes4) Are there any other proposed amendments pending on this Part? No5) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

6) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
 Department of Agriculture  
 State Fairgrounds  
 P.O. Box 19281  
 Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

7) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Bovine producers, veterinarians, laboratories

B) Reporting, bookkeeping or other procedures required for compliance: Additional means of identification have been added. No adverse impact is expected as producers have always been required to name their animals uniquely identified.

C) Types of professional skills necessary for compliance: None

D) Regulatory Agencies to which this rulemaking was summarized: July 1995

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The full text of the Proposed Rules begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

## PART 75

## BOVINE BRUCELLOSIS

## Section

## Definitions

|         |  |           |  |
|---------|--|-----------|--|
| 75.5    | Incorporation by Reference   |           |  |
| 75.7    | Official Classification of the Results of the Brucellosis Blood Test                   |           |  |
| 75.10   | Permits to Conduct Official Brucellosis Tests  |           |  |
| 75.15   | Reports Required   |           |  |
| 75.20   | Tests Conducted at State Expense or for Interstate or Export Shipment                  |           |  |
| 75.30   | Tests Conducted at Owner's Expense for Intrastate Movement (Repealed)                  |           |  |
| 75.40   | Indemnity  |           |  |
| 75.50   | Identification of Cattle   |           |  |
| 75.60   | Herds Revealing Reactors   |           |  |
| 75.70   | Sale of Suspects and Negative Animals From Quarantined Herds                           |           |  |
| 75.80   | Release of Herds or Cattle Under Quarantine  |           |  |
| 75.90   | Herds Revealing Suspects Only  |           |  |
| 75.100  | Identification Tags  |           |  |
| 75.110  | Requirements for Establishing and Maintaining  | Certified |  |
| 75.120  | Brucellosis-Free Herds of Cattle   |           |  |
| 75.130  | Feeding or Grazing Cattle  |           |  |
| 75.140  | Sale of Quarantined Feeding or Grazing Cattle  |           |  |
| 75.150  | Cattle for Immediate Slaughter   |           |  |
| 75.160  | Female Cattle--Beef Breeds--18 Months and Over   |           |  |
| 75.170  | Release of Feeding or Grazing Cattle from Quarantine                                   |           |  |
| 75.180  | Dairy or Breeding Cattle   |           |  |
| 75.190  | Additional Requirements on Cattle from States Designated as Class B and Class C States |           |  |
| 75.200  | Slaughter Cattle from Class B or Class C States  |           |  |
| 75.210  | Official Calftlood Vaccination   |           |  |
| 75.220  | Recognition of Brucellosis State Status  |           |  |
| TABLE A | Brucellosis Standard Plate Test or Officially Vaccinated Cattle and Bison (Repealed)   |           |  |
| TABLE B | Brucellosis Standard Plate Test of Non-Vaccinated Cattle and Bison (Repealed)          |           |  |

AUTHORITY: Implementing and authorized by the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30].

SOURCE: Regulations Relating to Bovine Brucellosis, filed January 17, 1972, effective January 27, 1972; filed May 3, 1972, effective May 13, 1972; filed December 6, 1972, effective December 17, 1972; filed June 11, 1973, effective June 20, 1973; filed December 11, 1973, effective December 24, 1973; filed



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August 19, 1975, effective August 29, 1975; filed March 12, 1976, effective March 22, 1976; filed June 21, 1976, effective July 1, 1976; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 55, effective June 15, 1978; amended at 3 Ill. Reg. 34, p. 96, effective August 24, 1979; amended at 5 Ill. Reg. 720, effective January 2, 1981; codified at 5 Ill. Reg. 10453; amended at 7 Ill. Reg. 1737, effective January 28, 1983; amended at 7 Ill. Reg. 1733, effective February 2, 1983; amended at 8 Ill. Reg. 5891, effective April 23, 1984; amended at 9 Ill. Reg. 1483, effective March 22, 1985; amended at 9 Ill. Reg. 19647, effective January 1, 1986; amended at 10 Ill. Reg. 9741, effective May 21, 1986; amended at 11 Ill. Reg. 10169, effective May 15, 1987; amended at 12 Ill. Reg. 3386, effective January 22, 1988; amended at 13 Ill. Reg. 3636, effective March 13, 1989; amended at 14 Ill. Reg. 1911, effective January 19, 1990; amended at 18 Ill. Reg. 1833, effective January 24, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 75.5 Definitions

The definitions for the rules of this Part shall be as stated in 8 Ill. Adm. Code 20.1. The following definition shall also apply:

"Act" means the Illinois Bovine Brucellosis Bradication Act (4115-Rev-Stat--1991-CH-87-PAR-134-ET-SEQ-7 [510 ILCS 30] (see--P-A--88-917 effective-July-14-1993-and-P-A--88-4577-effective-August-29-1993).

"Registered animal" means an animal for which individual records of ancestry are recorded and maintained by a breed association whose purpose is the improvement of the bovine species, and for which individual registration certificates are issued and recorded by such breed association. The breed associations recognized by the Department ~~Division~~ are those recognized by the United States Department of Agriculture (9 CFR 51.1, 1995 1993).

Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 75.10 Official Classification of the Results of the Brucellosis Blood Test

a) The official tests and classification of results for the brucellosis blood and milk tests shall be as prescribed in the Brucellosis Bradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228, May 6, 1992 as amended February 2, 1993 and June 16, 1994) and the United States Department of Agriculture and or 9 CFR 74.1 (1995 1993).

b) The card (Buffered Brucella Antigen) test or Buffered Acidified Plate (BAPA) test shall be the official tests used at licensed

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Livestock auction markets in the State. The CITES (Registered) test shall be used as a supplemental test whenever the card test is used.  
c) The official brucellosis test for cattle imported into Illinois shall be one conducted at an approved laboratory.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 75.15 Permits to Conduct Official Brucellosis Tests

a) A permit to operate a laboratory to conduct blood serum agglutination tests for brucellosis will be issued when the applicant has:

- 1) Completed a Department ~~Division~~ permit application and returned it to the Department ~~Division~~.
- 2) Received oral instruction on testing procedures from State-Federal Serology Laboratory personnel.
- 3) Completed a check test conducted at the State-Federal Serology Laboratory of 100 bovine brucellosis serum samples, with a score of at least 90% accuracy.
- b) Retesting of the person permitted to operate a laboratory to conduct brucellosis tests will occur when tests performed by the permittee fail to disclose three or more reactors as determined by confirmation tests at the State-Federal Serology Laboratory.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 75.20 Reports Required

a) The veterinarian is required to report in writing to the Department ~~Division~~ all brucellosis blood tests within seven days of the date of test. The report must accompany the blood sample and shall be reported on forms furnished by the Department ~~Division~~. This report shall contain the date of the test, a statement of results obtained, the name and address of the owner, together with proper identification of each animal tested. The identification of a grade animal shall include the predominating breed, sex, approximate age, and ear tag or microchip number. A purebred or crossed registered animal shall be identified by its breed, sex, age, and registration number or record association approved individual tattoo or microchip.

b) The veterinarian shall report in writing to the Department ~~Division~~ all brucellosis vaccinations of cattle within 30 days of the date of vaccination.

Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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Section 75.50 Indemnity

- a) If State funds are available, indemnity will be paid to owners of dairy and breeding cattle which react to the official test for the detection of bovine brucellosis and are destroyed provided:
  - 1) Tests are read at an approved laboratory.
  - 2) A report has been received from the veterinarian that the entire herd has been officially tested, except calves under 6 months of age and official vaccinates under 24 months of age for beef breeds and 20 months of age for dairy breeds.
  - 3) Indemnity forms are completed by an accredited veterinarian or a regularly employed State or Federal veterinarian and all the requirements of Sections 4 and 5 of the Act governing the payment of indemnity are observed.

b) Indemnity will not be paid for reactors disclosed on tests for release of feeder quarantine in accordance with Section 6.3 of the Act or where incomplete herd tests are conducted.

c) When State funds are available for paying indemnity, the Department shall pay to the owner an indemnity at the rate specified in Section 4 of the Act for each female calf destroyed which was nursing a cow classified as a brucellosis reactor.

d) Depopulation--When a herd is found to be severely infected as evidenced by disclosure of one or more reactors on 2 or more herd tests, or by more than 10% of the herd being disclosed as reactors on a single herd test, or through bacteriological culture of Brucella abortus from milk or tissue samples from a reactor, the entire herd shall be depopulated; provided, the herd owner agrees to such depopulation and State and/or federal indemnity funds are available to pay for the depopulation.

1) When the complete herd depopulation procedure is followed, and when State and United States Department of Agriculture funds are available, the State shall pay to the owner of cattle destroyed an indemnity of \$50 for any nonregistered animal and \$100 for any registered purebred or crossbred animal.

2) If at any time the United States Department of Agriculture fails to provide indemnity for herd depopulation, the State of Illinois shall, if State funds are available, pay to the owner of cattle destroyed an additional indemnity of \$50 for any nonregistered beef animal and \$250 for any registered beef or dairy and nonregistered dairy animal. For the purpose of this Section, "dairy animal" means a female bovine over 20 months of age, which has calved or is within 90 days of parturition and which is a member of a dairy herd used to produce milk for commercial use.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 75.60 Identification of Cattle

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a) All purebred or crossbred cattle subject to registration vaccinated with brucella abortus vaccine shall be identified on the report of vaccination by their registration number, or dam's registration number, or record association approved individual tattoo or microchip. All grade or not permanently identified cattle so vaccinated shall be ear tagged in the right ear with an identification tag. In addition to the above identification, all animals shall be identified at the time of vaccination by a tattoo in the right ear. The tattoo shall show the quarter and year of vaccination and the letter "v" in the Federal shield. The number of the quarter shall precede the letter "v" in the shield and the last figure of the year shall follow the letter "v" in the shield, as for example, 4V7--4" means the last quarter (Oct., Nov., Dec.) of the year, "v" means vaccinated, and "7" means the year (example 1957).

b) All cattle, except permanently identified purebred or crossbred animals, tested for brucellosis in the State of the Illinois shall be identified by an ear tag placed in the right ear, which tag shall bear a prefix number or letter followed by the number on the face of the tag, and on the reverse side shall bear the word "Illinois."

c) Purebred or crossbred registered cattle may be identified for test or vaccination by the purebred or crossbred registration number or individual registration breed tattoo or microchip.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 75.70 Herds Revealing Reactors

a) The entire herd shall be placed under quarantine and the reactor animals shall be immediately isolated from the remainder of the herd. Reactors shall be shipped for slaughter to a public stockyards, a licensed livestock action market, or directly to a recognized slaughtering establishment accompanied by United States Department of Agriculture VS Form 1-27 Permit For Movement of Animals and shipment reported to the Department Division.

b) All reactors shall be reactor tagged and branded by an accredited veterinarian or a veterinarian in the employ of the Department Division or the Animal and Plant Health Inspection Service within 10 days of report by the laboratory. ADE Form I-23 (Indemnity Claim for Cattle Slaughtered) shall be submitted in duplicate. Such reactor animals shall be shipped within 15 days after tagging and branding.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 75.80 Sale of Suspects and Negative Animals From Quarantined Herds

Suspects or negative exposed animals from herds under quarantine may be shipped



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by the owner direct to a recognized slaughtering establishment, a public stockyards or to a licensed livestock auction market, accompanied by Federal Form VS 1-27 to be sold for slaughter only and shipment reported to the Department ~~Division~~. Such cattle are to be identified by an ear tag supplied by the Department and by branding with a hot iron the letter "S" on the left jaw in letters not less than 2 nor more than 3 inches in height, before the animals leave the premises where they are quarantined, except that cattle for slaughter shall be exempt from the "S" branding requirements of this regulation when moved direct from a feedlot on the quarantined premises to a recognized slaughtering establishment in a vehicle which has been sealed by a Department employee, or a person designated by the Department.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 75.90 Release of Herds or Cattle Under Quarantine**

- a) Herds which disclose reactors shall be quarantined until depopulated or official tests indicate brucellosis infection no longer exists in the herd.
- b) An additional official test of all test-eligible cattle in the herd is required not less than 6 months after release of the herd quarantine or not less than 10 months after removal of the last reactor. For the purpose of this Section, "test-eligible" cattle means all cattle 6 months of age or over except steers, spayed heifers, and official brucellosis calfhood vaccinates under 24 months of age for beef breeds and 20 months of age for dairy breeds.
- c) Such herd retests shall be conducted at State-Federal expense; provided, funds are available. The blood samples shall be submitted for diagnosis to an approved laboratory.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 75.110 Identification Tags**

No person shall remove identification tags, numbers, brands, ear tags, microchips, or market cattle identification program backtags from livestock except:

- a) Backtags shall only be removed when an animal is blood tested or is slaughtered and a Market Cattle identification sample collected.
- b) Identification tags shall be removed only when an animal is slaughtered and a Market Cattle identification sample collected.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 75.120 Requirements for Establishing and Maintaining Certified**

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**Brucellosis-Free Herds of Cattle**

Certified brucellosis-free herds shall be established and maintained in accordance with the Brucellosis Eradication Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228; May 6, 1992 as amended February 2, 1993 and June 16, 1994) and the United States Department of Agriculture and/or 9 CFR 78.1 (1995 1993).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 75.130 Feeding or Grazing Cattle**

- a) All steers and spayed heifers, and calves of the beef breeds under 6 months of age may enter Illinois when accompanied by an official interstate health certificate OR by a permit from the Department ~~Division~~. A permit may be obtained by telephoning or writing the Department ~~Division~~. Steers and spayed heifers are not subject to quarantine restrictions.
- b) Heifers, untested, of the beef breeds over 6 months of age and under 18 months for feeding and grazing purposes only from Class A, B, or C states may enter Illinois when accompanied by an official interstate health certificate AND a permit from the Department ~~Division~~. They are placed under quarantine at destination and shall be held under quarantine for the period of feeding, not to exceed 12 months, with an extension of 90 days granted on request to the Department ~~Division~~. Heifers, untested, of the beef breeds over 6 months of age and under 18 months for feeding and grazing purposes only from Class Free states may enter Illinois when accompanied by an official interstate health certificate and will not be placed under quarantine at destination.
- c) The owner shall report to the Department ~~Division~~ the disposition of heifers which are under quarantine for feeding and grazing purposes. If such heifers are retained longer than the allowed feeding period, they shall be tested for brucellosis at owner's expense. All brucellosis blood tests for release of quarantine shall be conducted at an approved laboratory.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 75.140 Sale of Quarantined Feeding or Grazing Cattle**

The sale or transfer of feeding or grazing cattle under quarantine is permitted provided that the original quarantine holder shall, within 10 days, report to the Department ~~Division~~ such transfer of quarantined animals, giving name and address of person to whom animals were transferred, date of transfer, and number of animals transferred. There may be one transfer of ownership only.

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No second transfer of quarantine will be permitted. The feeder animals which were transferred will be quarantined to the new owner for the remainder of the feeding period and any extension thereof granted by the Department Division.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 75.160 Female Cattle--Beef Breeds--18 Months and Over**

Female cattle of the beef breeds 18 months of age and over, for feeding or grazing purposes only, may enter Illinois, or may be shipped from public stockyards within the State, if they are accompanied by an official interstate health certificate showing:

- a) Negative brucellosis blood test conducted at a State or Federal Laboratory within 30 days prior to entry, OR
- b) The animals to be under 24 months of age and officially calfhood vaccinated against brucellosis, OR
- c) Originated from a Brucellosis Class Free State or Country or a Certified Brucellosis-Free Herd.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 75.170 Release of Feeding or Grazing Cattle from Quarantine**

The quarantine on feeding or grazing cattle is released when:

- a) The owner reports to the Department Division the shipment of the quarantined animals to a public stockyard or a licensed livestock auction market, OR
- b) The owner reports to the Department Division the sale of the quarantined cattle for immediate slaughter to a person regularly engaged in the slaughter of cattle, or reports the slaughter of the cattle for his own use, OR
- c) The owner reports to the Department Division the death of the quarantined animals, OR
- d) The Department Division receives a report of required negative brucellosis blood test conducted by an accredited veterinarian for the release of the quarantine on the animals. The report of test for release from the quarantine should bear a notation that the test is conducted for quarantine release. Such test shall be at the owner's expense. All brucellosis blood tests for release of feeder quarantine shall be conducted at an approved laboratory, OR
- e) The owner reports to the Department Division the transfer within 10 days of the feeder females. Name and address of purchaser shall be furnished for transfer of quarantine for remainder of feeding period and any extension thereof granted by the Department Division.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 75.180 Dairy or Breeding Cattle**

All dairy or breeding cattle transported or moved into the State of Illinois, unless said cattle are consigned direct to and delivered by the transportation company within the confines of a public stockyards or marketing center, shall be accompanied by an official certificate of health showing:

- a) All such cattle over 6 months of age are negative to brucellosis blood test within 30 days prior to shipment, OR
- b) All cattle originated from a certified brucellosis-free herd, Class Free State or Country. Certified herd number shall be given and the cattle shall be identified by ear tag number, registration name and number, dam's registration number, or record association approved individual tattoo, OR
- c) Cattle are official brucellosis calfhood vaccinates under 24 months of age for beef breeds and 20 months of age for dairy breeds.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 75.190 Additional Requirements on Cattle from States Designated as Class B and Class C States**

- a) In addition to other entry requirements, a prior permit must be obtained for dairy, feeding or breeding cattle, except those consigned direct to slaughter or calves under 6 months of age except as further provided for in this Section, entering Illinois from states designated by the U.S. Department of Agriculture as Class B and Class C under provisions of the Brucellosis Eradication Uniform Methods and Rules as recommended and approved by the United States Animal Health Association (P. O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and by the U.S. Department of Agriculture (May 6, 1992, as amended February 2, 1993 and June 16, 1994). Such prior permits shall be obtained by contacting the Bureau of Animal Health Division--of--Animal--Industries, Illinois Department of Agriculture, State Fairgrounds, P.O. Box 19281, Springfield, Illinois 62794-9281, telephone 217/782-4944. Information regarding the origin, destination and description of the cattle along with the number of animals in the shipment is necessary for obtaining a permit.
- b) Breeding cattle 12 months of age or over from such states shall be placed under quarantine and in isolation until retested and negative to an official test for brucellosis conducted not less than 45 days nor more than 120 days after entering Illinois. Breeding cattle originating from certified brucellosis-free herds are exempt from this provision.
- c) All female cattle born after July 1, 1985, if more than 4 months of age, except spayed heifers (female cattle may be spayed after entry



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into Illinois with prior approval from the Department ~~Division~~ which will be given upon receipt of the name of the veterinarian who will be performing the operation) or those consigned directly to slaughter, entering Illinois from Class B or Class C states must be official calfhood vaccinates and vaccination status shall be recorded on the official interstate health certificate. In lieu of calfhood vaccination, cattle from Class B states entering Illinois for feeding purposes only may be identified with a hot iron brand on either or both jaws or either hip using the letter F of not less than three inches in height.

1) Female cattle, except those consigned directly to slaughter, entering Illinois from Class C states shall, in addition to present entry requirements now on file, either originate from a certified brucellosis-free herd or be spayed and be officially identified by a not iron brand on either or both jaws or on either hip using an open spade design (e.g., as used in playing cards) of not less than three inches in height. Certification of spaying by an accredited veterinarian is to be shown on the official interstate health certificate. Female cattle may be spayed after entry into Illinois with prior approval from the Department ~~Division~~ which will be given upon receipt of the name of the veterinarian who will be performing the operation.

2) Calves under two months of age not accompanied by their dams may be imported from Class C states if they meet the following requirements:

- 1) An entry permit shall be obtained on all shipments. All such calves shall be quarantined until shipped to slaughter or neutered (spayed or castrated).
- 2) All calves shall be accompanied by the Certificate of Veterinary Inspection (i.e., health certificate) and shall be individually identified by official eartags. The eartag numbers shall be recorded on the Certificate.

Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 75.200 Slaughter Cattle from Class B or Class C States

a) Prior to movement for slaughter, all test-eligible cattle of unknown status originating in Class B or Class C states in accordance with the Brucellosis Eradication Uniform Methods and Rules (May 6, 1992, as amended February 2, 1993 and June 16, 1994; as recommended and approved by the United States Animal Health Association (P.O. Box 2227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and by the United States Department of Agriculture) shall:

- 1) Be subjected to an official test for brucellosis within 60 days prior to movement from the farm of origin, OR
- 2) Be subjected to an official test for brucellosis at the market or stockyards (first point testing), OR

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- 3) Be permanently identified with a hot iron "S" brand on the left jaw and be accompanied to slaughter by USDA Form VS 1-27, OR
- 4) Be accompanied by USDA Form VS 1-27 and moved direct to slaughter in sealed trucks and/or compartments, with no intermediate stops.
- b) For the purpose of this Section, "test-eligible" cattle means all cattle 18 months of age or over, except steers, spayed heifers, and official brucellosis calfhood vaccinates under 24 months of age for beef breeds and 20 months of age for dairy breeds. Finished fat heifers moving in marketing channels direct to slaughter will not be considered as test-eligible cattle.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Definitions2) Code Citation: 8 Ill. Adm. Code 203) Section Numbers: Proposed Action:  
20.1 Amendment

4) Statutory Authority: Implementing and authorized by Section 15 of the Illinois Swine Disease Control and Eradication Act (510 ILCS 100/15); implementing and authorized by Section 15 of the Illinois Feeder Swine Dealer Licensing Act (225 ILCS 620/15); implementing and authorized by Section 15 of the Illinois Livestock Dealer Licensing Act (225 ILCS 645/15); implementing and authorized by Section 18 of the Illinois Bovine Tuberculosis Eradication Act (510 ILCS 35/18); implementing and authorized by Section 10 of the Illinois Bovine Brucellosis Eradication Act (510 ILCS 30/10); implementing and authorized by Section 7 of the Illinois Swine Brucellosis Eradication Act (510 ILCS 95/7); implementing and authorized by Section 12 of the Illinois Dead Animal Disposal Act (225 ILCS 610/12); implementing and authorized by Section 2 of the Illinois Diseased Animals Act (510 ILCS 50/2); implementing and authorized by Sections 8a and 11 of the Livestock Auction Market Law (225 ILCS 640/8a and 11); implementing and authorized by Section 2.3 of the Poultry Inspection Act (510 ILCS 95/2.3); implementing and authorized by Section 5 of the Illinois Pseudorabies Control Act (510 ILCS 90/5).

5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to Division are changed to Department. Cites to the Code of Federal Regulations and Uniform Methods and Rules have been updated to reflect the most current printed versions of these publications. The definition of "State Inspector" has been updated to include the current title in use under the State's Personnel Code.

The definition of "health certificate" is amended to limit the effective date of the document to 30 days after issuing (except for exhibition sheep and Illinois swine which is 90 days). The thirty days effective date has been the norm for health certificates but had never been addressed in the regulations.

The definition of "feeder swine" is changed to redefine feeders as animals under four months of age. This definition is currently in use by industry so this amendment will bring Department regulations in line with current practices.

The definition of infected, positive or reactor animal has been expanded to make the final determination of the status of an animal by a state or federal epidemiologist. This allows for interpretation of test results,

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as there are several tests available for a single disease, and the animal may be positive on one test and negative on another.

6) Will this proposed rule replace an emergency rule in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? Yes9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of

Debbie Wakefield  
Department of Agriculture  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: People exhibiting animals in Illinois livestock producers.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

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13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

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## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 20  
DEFINITIONS

## Section

## 20.1 Definitions

**AUTHORITY:** Implementing and authorized by Section 15 of the Illinois Swine Disease Control and Eradication Act (510 ILCS 100/15); Section 15 of the Illinois Feeder Swine Dealer Licensing Act (225 ILCS 620/15); Section 15 of the Illinois Livestock Dealer Licensing Act (225 ILCS 645/15); Section 18 of the Illinois Bovine Tuberculosis Eradication Act (510 ILCS 35/18); Section 10 of the Illinois Bovine Brucellosis Eradication Act (510 ILCS 30/10); Section 7 of the Illinois Swine Brucellosis Eradication Act (510 ILCS 95/7); Section 12 of the Illinois Dead Animal Disposal Act (225 ILCS 610/12); Section 2 of the Illinois Diseased Animals Act (510 ILCS 50/2); Sections 8a and 11 of the Illinois Stock Auction Market Law (225 ILCS 640/8a and 11); Section 2.3 of the Poultry Inspection Act (510 ILCS 85/2.3); and Section 5 of the Illinois Pseudorabies Control Act (510 ILCS 90/5).

**SOURCE:** Regulations Relating to the Bureau of Animal Health and the Bureau of Animal Welfare, Definitions, filed January 27, 1966, effective January 27, 1966; amended May 3, 1972, effective May 14, 1972; codified at 5 Ill. Reg. 10437; amended at 8 Ill. Reg. 5915, effective April 23, 1984; amended at 9 Ill. Reg. 18404, effective November 19, 1985; amended at 10 Ill. Reg. 9747, effective May 21, 1986; amended at 12 Ill. Reg. 8275, effective May 2, 1988; amended at 18 Ill. Reg. 1844, effective January 24, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 20.1 Definitions

- a) The term "Department" or "Department of Agriculture", unless otherwise indicated, means the Department of Agriculture of the State of Illinois.
- b) ~~The term "Division" or "Division of Animal Industries" means the Division of Animal Industries of the Illinois Department of Agriculture.~~
- b) The term "Animal and Plant Health Inspection Service" means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.
- c) The term "brucellosis" means the disease wherein an animal is infected with Brucella micro-organisms irrespective of the occurrence or absence of clinical signs.
- d) The term "official test" means any test for the detection of a



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reportable disease in Illinois as defined in 8 Ill. Adm. Code 85.10 approved by the Department and the Animal and Plant Health Inspection Service which is based on a standard test which is approved by the American Association of Veterinary Laboratory Diagnosticians and the United States Department of Agriculture and conducted in an approved laboratory.

1)† The term "suspicious animal" or "suspect" means an animal which has given a positive reaction to an official test and whose test results are less than that which would result in a classification of reactor.

2)† The term "infected animal", "positive animal" or "reactor" means an animal which has given a positive reaction to any official test or in which evidence of the disease has been found in the body or in the body discharges and classified as such by a state or federal epidemiologist.

3)† The term "approved laboratory" means one of the animal disease laboratories operated by the Department Division, the State-Federal Serology Laboratory, the Laboratories of Veterinary Diagnostic Medicine at the College of Veterinary Medicine, University of Illinois, or a laboratory approved by the Animal Health Official of the exporting state to conduct official tests.

4)† The term "ring test" or "BRT" -- brucellosis ring test, means the diagnostic test of milk or cream to detect the presence of brucellosis in the herd in which such milk or cream sample was produced.

5)† "Infectious disease" means the reaction resulting from the introduction into the body of a specific disease-producing organism or its toxic product.

6)† "Contagious disease" means a specific infectious disease which is readily transmitted from host to host by direct contact or by means of intermediate hosts.

7)† The term "infestation" or "infested with" means the invasion of the body by animal parasites.

8)† The term "quarantine" means a condition in which one or more animals shall be kept separate and apart from and not allowed to come in contact in any way with other animals.

9)† The term "restriction" or "restricted" means a condition in which one or more animals shall be kept on certain designated premises and shall not be allowed to come in contact in any way with animals from other premises.

10)† A "Certified Brucellosis-Free Herd" is one in which at least two annual negative official tests for brucellosis have been conducted on all animals in the herd 6 months of age or over and for which a certificate has been issued by the Animal Health Official of the state of origin and the Animal and Plant Health Inspection Service.

11)† A "Tuberculosis-free Accredited Herd" is one for which a certificate of accreditation has been issued by the Animal Health Official of the state of origin and the Animal and Plant Health Inspection Service.

12)† The term "accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal

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health authority of that state, and is accredited by the United States Department of Agriculture.

1)† A "recognized slaughtering establishment" is an establishment where slaughtering is conducted under Federal or State inspection.

2)† The term "public stockyards" means a stockyard where trading in livestock is conducted, where yarding, feeding, and watering facilities are provided by the stockyard, transportation, or similar company, and where State and/or Federal inspection is maintained for the inspection of livestock for communicable disease, such as National Stockyards located at East St. Louis, and Peoria Union Stockyards located at Peoria.

3)† A "Marketing Center" is a licensed livestock auction market which has been designated as a "Specifically Approved Stockyard" by the Department and the United States Department of Agriculture (9 CFR 78.44 (1995 1999)). Incorporation by reference does not include any later amendments or editions beyond the date specified. Marketing Centers shall enter into a Memorandum of Understanding with the United States Department of Agriculture and the Department and comply with the standards set forth in that Memorandum.

4)† A "consignment" means a document issued by the owner or shipper of livestock, designating the name of the owner and/or shipper; place of origin; stockyards, packing plant, or marketing center of destination; date of shipment; and number and description of livestock, certified to be the owner or shipper, kept in possession of the carrier and delivered to a stockyard, packing plant, or marketing center of destination upon acceptance. This consignment shall be held by the stockyards, packing plant, or marketing center for a period of not less than six months for inspection by the legally authorized officials of the United States Department of Agriculture and the Department and other officials having police powers.

5)† The term "health certificate" or "certificate of health" or "interstate health certificate" or "certificate of veterinary inspection" means a legible record, made on an official form of the state of origin, or the Animal and Plant Health Inspection Service, and issued by an accredited veterinarian of the state of origin, a veterinarian in the employ of the Animal and Plant Health Inspection Service, or a veterinarian in the employ of the United States Armed Services, which shows that the animals or birds listed thereon meet the health requirements of the state of destination. The health certificate shall contain the name and address of the consignor, the name and address of the consignee, and an accurate description or identification of the animals or birds involved, and shall also indicate the health status of the animals or birds, including the dates and results of required tests and dates of vaccination, if any. A health certificate is valid for 30 days after issuance, except where specific exemptions are made for exhibition livestock. The two copies of the health certificate that are labeled "Division Copy" shall be submitted to the Department Division within 30 days of issuance.

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~~1)†~~ An "approved health certificate" is one that has been so endorsed by the Animal Health Official of the state of origin.

~~2)†~~ The term "State Inspector" means an Animal Health Inspector or Animal and Animal Products Investigator employed by the ~~Division of Animal Industries of the~~ Illinois Department of Agriculture.

~~3)†~~ The term "Federal Inspector" means an Animal Health Technician employed by the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

~~4)†~~ The term "feeder female cattle" means female bovines 6-18 months of age which have not been tested for brucellosis prior to sale.

~~5)†~~ The term "Director" means the Director of the Illinois Department of Agriculture.

~~6a)†~~ The term "feeder swine" or "feeding swine" means swine under ~~four~~ 6 months of age, weighing less than slaughter weight and not requiring testing as breeding swine or swine consigned directly to slaughter.

~~6b)†~~ The term "Market Cattle Identification Program" means the brucellosis testing program of market cattle that is part of the National Brucellosis Eradication Program (9 CFR 78 (1995 1993)). Incorporation by reference does not include any later amendments or editions beyond the date specified. In accordance with the authority stated in the Illinois Bovine Brucellosis Eradication Act ~~††††† Rev. Stat. 1991-CH-87-par-135†~~ (510 ILCS 30/2) ~~as amended by P.A. 88-917 effective July 17, 1993 and P.A. 88-457 effective August 20, 1993,~~ the Department has entered into a cooperative agreement with the United States Department of Agriculture to identify brucellosis infected herds.

~~6c)†~~ The term "negative exposed cattle" means a test negative animal in an infected herd.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Diseased Animals

2) Code Citation: 8 Ill. Adm. Code 85

3) Section Numbers: Proposed Action:

|        |             |
|--------|-------------|
| 35.5   | Amendment   |
| 35.10  | Amendment   |
| 35.15  | Amendment   |
| 35.20  | Amendment   |
| 35.25  | Amendment   |
| 35.30  | Amendment   |
| 35.35  | Amendment   |
| 35.45  | Amendment   |
| 35.50  | Amendment   |
| 35.75  | Amendment   |
| 35.90  | Amendment   |
| 35.95  | Amendment   |
| 35.100 | Amendment   |
| 35.105 | Amendment   |
| 35.110 | Amendment   |
| 35.115 | Amendment   |
| 35.130 | New Section |

4) Statutory Authority: Illinois Diseased Animals Act (510 ILCS 50); Section 6 of the Illinois Bovine Brucellosis Eradication Act (510 ILCS 30/6); Livestock Auction Market Law (225 ILCS 640); and Equine Infectious Anemia Control Act (510 ILCS 65).

5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to "Division" have been changed to "Department". Cites to the Code of Federal Regulations and Brucellosis Eradication Uniform Methods and Rules have been updated to the most current printed version of these documents. The name of the US Sanitation Monitored Herds is no longer being used by the industry, and the term U.S. S. Enteritidis is now used to designate poultry flocks participating in the National Poultry Improvement Plan (corrected in Section 85.115).

Methods of identification of livestock have been updated to include ear tags under identification that cannot be removed from livestock, and microchip identification has been added as breed associations are adopting this type of identification (Sections 90.3 and 90.35).

There was an outbreak of vesicular stomatitis (VS) in the southwest during the summer. As this is a highly contagious disease, the Department instituted emergency regulations restricting the movement of infected and exposed animals from areas where the disease has been confirmed. VS is a

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disease that reoccurs in the United States every several years. The Department is making the emergency regulations permanent, with the inclusion of the statement that VS must have been diagnosed within the past thirty days (Section 85.130).

6) Will this proposed rule replace an emergency rule in effect? Yes, published at 19 Ill. Reg. 10734, July 21, 1995 (Section 85.130).

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
Department of Agriculture  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281.

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

## 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Slaughter facilities; owners of animals moving interstate for the purposes of exhibition, sale, etc.

B) Reporting, bookkeeping or other procedures required for compliance: Certificates of Veterinary Inspection will be required for Livestock

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transported into Illinois from states with a confirmed diagnosis of vesicular stomatitis.

C) Types of professional skills necessary for compliance: Veterinary inspection.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page.



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TITLE 8: AGRICULTURE AND ANIMALS  
 CHAPTER 1: DEPARTMENT OF AGRICULTURE  
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 85  
 DISEASED ANIMALS

## Section

- 85.5 Definitions
- 85.7 Incorporation by Reference
- 85.10 Reportable Diseases
- 85.15 Truck Cleaning and Disinfection
- 85.20 Disposal of Sick, Diseased, or Crippled Animals at Stockyards
- 85.25 Sale of Livestock Quarantined Because of Disease
- 85.30 Identification Ear Tags for Livestock
- 85.35 Identification Tags Not to be Removed
- 85.40 Livestock for Immediate Slaughter Not to be Diverted En Route
- 85.45 Anthrax
- 85.50 Goats
- 85.55 Scrapie in Sheep
- 85.60 Bluetongue
- 85.65 Sheep Foot Rot (Repealed)
- 85.70 Cattle Scabies
- 85.75 Cattle Scabies--Additional Requirements on Cattle From Certain Designated Areas
- 85.80 Sheep
- 85.85 Diseased Animals
- 85.90 Copy of Health Certificate Shall Be Furnished
- 85.95 Requests for Permits
- 85.100 Consignments to Stockyards, Recognized Slaughtering Centers, or Marketing Centers
- 85.105 Obligation of Transportation Company and Truck Operators
- 85.110 Additional Requirements on Cattle From Designated States
- 85.115 Salmonella enteritidis serotype enteritidis
- 85.120 Cervidae
- 85.125 Ratites
- 85.130 Vesicular Stomatitis

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act (510 ILCS 50); Section 6 of the Illinois Bovine Brucellosis Eradication Act (510 ILCS 30/61; Livestock Auction Market Law (225 ILCS 640); and Equine Infectious Anemia Control Act (510 ILCS 65).

SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective

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August 17, 1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5925, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 18411, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 15313, effective September 10, 1990; amended at 16 Ill. Reg. 11756, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 14052, effective August 16, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 1850, effective January 24, 1994; emergency amendment at 19 Ill. Reg. 10734, effective July 10, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 85.5 Definitions

Definitions for the rules of this Part are located in the general definitions Section (8 Ill. Adm. Code 20.1) and apply to the rules of this Part. The following definitions shall also apply to the rules of this Part:

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture (9 CFR 160, 161 and 162; 1995 +993).

"Division" means the Division of Animal Industries of the Illinois Department of Agriculture--State Fairgrounds--508--Box--19281; Springfield, Illinois 62794-9281.

"Recognized slaughtering center" means an establishment where slaughtering is conducted under Federal or State inspection.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 85.10 Reportable Diseases

- a) Suspected cases of the following diseases shall be reported immediately to the Department:

anthrax  
 avian influenza  
 bluetongue  
 brucellosis -- bovine, swine, equine, and caprine  
 contagious equine meningitis  
 equine infectious anemia  
 equine viral encephalitis  
 fowl typhoid  
 hog cholera

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Mycoplasma gallisepticum -- turkeys  
 Mycoplasma synoviae -- turkeys  
 Newcastle disease  
 paratuberculosis - (John's disease)  
 piroplasmosis  
 pseudorabies -- (Aujeszky's disease)  
 psittacosis - (ornithosis)  
 pullorum disease  
 rabies  
 salmonella enteritidis -- poultry  
 salmonella typhimurium -- poultry  
 scabies -- cattle and sheep  
 scrapie  
 tuberculosis -- bovine  
 vesicular conditions of any type  
 any contagious or infectious disease presently considered as  
 "exotic", i.e., not known to exist in the United States

- b) Any herd owner, flock owner, veterinarian or other person having knowledge of the disease, failing to report a suspect case of any of the above diseases immediately after discovery, or who is responsible for the spread of the disease, shall be subject to penalty as provided by law.

- c) Reports of any of the above diseases shall be made to the Department Division, telephone 217/782-4944.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 85.15 Truck Cleaning and Disinfection**

Any truck or other conveyance in which diseased livestock is transported shall be cleaned and disinfected immediately after the diseased livestock is unloaded as prescribed in the Code of Federal Regulations (9 CFR 71.7, 71.10 - 71.12; 1995 1999).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 85.20 Disposal of Sick, Diseased, or Crippled Animals at Stockyards**

No person, firm, or corporation shall remove from any public stockyards any sick, diseased, or crippled animals for the purpose of producing meat to be sold for human consumption, except in cases where the Department Division releases such animals after antemortem inspection, provided that this restriction shall not apply to any recognized slaughtering center.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 85.25 Sale of Livestock Quarantined Because of Disease**

Except as otherwise provided by statute and/or rule, the sale of livestock quarantined because of disease or exposure to disease is prohibited unless permission of the Department Division is first obtained. The Department Division will then prescribe the conditions under which such sale may be made. The factors that will be considered for sanctioning the sale of quarantined livestock include:

- What disease is involved.
- If a human health hazard is involved.
- If the animals are infected or only exposed.
- If adequate slaughtering plant facilities for handling, processing, cleaning and disinfecting are available.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 85.30 Identification Ear Tags for Livestock**

- All livestock, except purebred or crossbred animals registered with an approved registry association, tested for brucellosis and/or tuberculosis in the State of Illinois shall be identified by an ear tag placed in the right ear, which tag shall bear the prefix number "33," followed by 3 letters and then by 4 numbers, and on the reverse side shall bear the word "Illinois."

- Purebred or crossbred animals registered with an approved registry association may be identified for test or vaccination by registration number, dam's registration number, microchip, or record association approved individual tattoo.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 85.35 Identification Tags Not to be Removed**

No person shall remove identification tags, numbers, brands, ear tags, microchips, or market cattle identification program backtags from livestock to evade the provisions of the law.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 85.45 Anthrax**

- No anthrax vaccine shall be used within the State of Illinois unless the veterinarian has secured a permit from the Department Division for its use. Permits will be granted for the use of anthrax vaccine only in areas where the disease is known to exist or has been known to

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exist.

b) No anthrax vaccine shall be sold within the State of Illinois except to licensed veterinarians who have received a permit from the Department Division for the use of such vaccine on designated premises or within a specified area.

c) When any animals are vaccinated against anthrax, the premises and all animals thereon shall be placed under quarantine.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 85.50 Goats

a) Part A -- Brucellosis in Goats

1) When a serologic test for brucellosis in goats discloses one or more reactors, the entire herd shall be placed under quarantine and the reactor(s) immediately isolated from the remainder of the herd, reactor tagged and branded, and slaughtered. After removal of the reactor(s), the entire herd shall be retested at time intervals and the number of times as requested by the Department Division. The length of the quarantine period shall be determined by the Department Division.

2) All brucellosis agglutination blood tests of goats shall be made at an approved laboratory.

b) Part B -- Requirements for Establishing and Maintaining Certified Brucellosis-Free Herds of Goats

1) General Requirements

A) Certified brucellosis-free herd certificates, which shall be valid for one year, unless revoked in accordance with the procedures as adopted by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and as outlined for cattle certificate revocation in the Brucellosis Eradication Uniform Methods and Rules, effective May 6, 1992, amended February 2, 1993, and June 16, 1994, published by the United States Department of Agriculture, Animal and Plant Health Inspection Service, shall be issued by the Department Division.

B) Certificates shall be extended for a period of one year upon evidence of a negative herd retest and compliance with all requirements for maintenance of a certified brucellosis-free herd.

C) A "herd" shall be considered as including all animals 6 months of age and over and shall consist of at least 5 animals.

D) All animals in the herd shall be identified by registration number, individual tattoo, or ear tag.

E) All official blood tests of goats shall be conducted at an

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approved laboratory.

2) To Qualify for Certification

A) Herds shall be certified upon completion of 2 consecutive negative complete herd tests not less than 10 nor more than 14 months apart.

B) Animals classified as suspects, in herds that are otherwise negative, must be retested at 30-day intervals until their status has been determined. If the suspects are sold or otherwise disposed of before their status has been determined, the entire herd must be retested to achieve a negative herd status. If the suspects are classified as reactors upon retest, the herd is considered to be infected. Diseased goats may only be consigned directly to a slaughtering facility and must be accompanied by a "Permit for Movement, VS Form 1-27".

C) If on the initial herd test, or as a result of any retests of animals in the herd, one or more reactors are disclosed, the entire herd shall be placed under quarantine and the reactor(s) immediately isolated from the remainder of the herd, reactor tagged and branded, and slaughtered. After removal of the reactor(s), the entire herd shall be retested at time intervals and the number of times as requested by the Department Division. The length of the quarantine period shall be determined by the Department Division.

3) To Qualify for Recertification

A) A negative herd test conducted within 60 days prior to the anniversary date is required for continuous certification. Upon receipt of a negative herd test, the Department Division shall extend certification for 12 months from the anniversary date.

B) If the annual test for recertification is conducted within 60 days following the anniversary date and all the animals are negative, certification will be restored and the certification period will be 12 months from the anniversary date.

C) If the annual test for recertification is not conducted within 60 days following the anniversary date, certification is cancelled and recertification requirements are then the same as for initial certification.

D) If suspects or reactors are disclosed on a recertification test, their disposition and herd retest requirements shall be the same as specified in Section 85.50(b)(2)(B) and (C).

E) All official blood tests of goats shall be conducted at an approved laboratory.

4) Additions to Certified Brucellosis-Free Herds

A) Animals originating from other certified herds may be added without retest.

B) Animals originating from herds not certified may be added:



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provided, they are negative to an official brucellosis test within 60 days prior to addition, are held in isolation from other members of the certified herd for a minimum period of 30 days and are retested and negative at the end of this isolation period.

- C) Purchased additions shall not receive new herd status for sale or exhibition purposes until they have been members of the herd for at least 30 days and are included in a complete herd retest.

c) Part C -- Requirements for Establishing and Maintaining Accredited Tuberculosis-Free Herds of Goats

1) General Requirements

- A) Accredited tuberculosis-free herd certificates, which shall be valid for one year, unless revoked in accordance with the procedures outlined in the Bovine Tuberculosis Eradication Uniform Methods and Rules, effective ~~March 31, 1989~~, as amended February 3, 1989, Part III B, Accredited Herd Plan for Dairy Goats, shall be issued by the Department Division (9 CFR 77.1 (1995 1993)).

- 3) Certificates may be extended for a period of one year upon evidence of a negative herd retest and compliance with all requirements for maintenance of an accredited tuberculosis-free herd.

- C) A "herd" shall be considered as including all animals 12 months of age and over and shall consist of at least 5 animals.

- D) All animals in the herd shall be identified by registration number, individual tattoo, or ear tag.

- E) All official tuberculin tests shall be conducted by an accredited veterinarian or a veterinarian in the employ of the Illinois Department of Agriculture or the United States Department of Agriculture.

2) To Qualify for Accreditation

- A) Herds shall be accredited upon completion of 2 consecutive negative complete herd tests not less than 10 nor more than 14 months apart.

- B) If a reaction to the tuberculin test is disclosed, the veterinarian reading the test shall, within 24 hours, notify the Department Division by collect telephone call and make arrangements for a veterinarian trained in conducting the comparative-cervical test to retest the animal within 10 days of the original injection. If the animal is identified as a reactor as a result of the comparative-cervical test, personnel from either the Illinois Department of Agriculture or the United States Department of Agriculture will issue a quarantine, supervise disposition of animals, and conduct additional tests on members of the herd.

3) To Qualify for Reaccreditation

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- A) A negative herd test conducted within 60 days prior to the anniversary date is required for continuous accreditation. Upon receipt of a negative herd test, the Department Division shall extend accreditation for 12 months from the anniversary date.

- B) If the annual test for reaccreditation is conducted within 60 days following the anniversary date, certification will be restored and the accreditation period will be 12 months from the anniversary date.

- C) If the annual test for reaccreditation is not conducted within 60 days following the anniversary date, accreditation is cancelled and reaccreditation requirements are then the same as for initial accreditation.

- D) If a reaction to the tuberculin test is disclosed at the time of the reaccreditation test, the procedure outlined in Section 85.50(b)(2)(B) shall be followed.

4) Additions to Accredited Tuberculosis-Free Herds

- A) Animals originating from other accredited herds may be added without tests.

- B) Animals originating from herds not accredited may be added; provided, they are negative to an official test for tuberculosis within 60 days prior to addition and are retested and negative to an official tuberculin test not sooner than 60 days from the date the previous test was conducted.

- C) Purchased additions shall not receive new herd status for sale or exhibition purposes until they have been members of the herd for at least 60 days and are included in a complete herd retest.

- d) Part D - Other Contagious Diseases. All goats, including dairy goats, will not be allowed to be exhibited in Illinois and must be removed immediately from the exhibition area if showing signs of any of the following conditions:

- 1) Lesions of contagious ecthyma (sore mouth).
- 2) Active lesions of ringworm with resulting loss of hair.
- 3) Caseous lymphadenitis as evidenced by draining abscesses.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 85.75 Cattle Scabies -- Additional Requirements on Cattle from Certain Designated Areas

- a) A prior permit must be obtained from the Department Division before cattle, except those consigned direct to slaughter, may enter Illinois from certain designated areas determined to have high incidence of cattle scabies. The Director of the Department shall have authority to specify the designated areas from which movement of cattle into

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Illinois will be restricted.

b) Cattle from such areas, except those consigned to a recognized exhibition and moved from Illinois following exhibition (county and State fairs, other State-supported exhibitions, and breed registry exhibitions); dairy cattle; or those consigned direct to slaughter, shall be dipped for cattle scabies within 10 days prior to entry or treated in accordance with the procedures as set forth in 9 CFR 73.12 (1995 1993).

c) Each such animal shall be treated with a solution of approved acaricide and water or other method of treatment approved by the United States Department of Agriculture (9 CFR 73.10 and 73.12; 1995 1993).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 85.90 Copy of Health Certificate Shall be Furnished

a) A copy of the certificate of health under which livestock is brought into the State of Illinois, bearing the approval or, if not approved, the disapproval of the Animal Health Official of the state of origin, shall be furnished the Department Division.

b) No person shall change the names, numbers, words, or phrases upon an official health certificate or permit to evade the provisions of the law.

c) All official brucellosis tests of animals which are intended for interstate movement shall be made at an approved laboratory.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 85.95 Requests for Permits

a) Requests for entry permits shall be directed to the Department Division and shall set forth the following information: Name and address of Illinois consignee, number and kind of animals, origin of shipment, and if for cattle, the age, sex, and breed of the cattle.

b) Exhibition livestock health requirements may also be secured from the Department Division.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 85.100 Consignments to Stockyards, Recognized Slaughtering Centers, or Marketing Centers

a) All out-of-state livestock consigned to a public stockyard, recognized slaughtering center, or marketing center shall be accompanied from

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point of origin by a permit issued by the Department Division, or by a consignment issued by the owner or shipper of the livestock, designating the name of the owner or shipper, place of origin, public stockyard, recognized slaughtering center, or marketing center of destination, date of shipment, and number and description of livestock.

b) A copy of the consignment shall be held by the public stockyard, recognized slaughtering center, or marketing center for a period of not less than 6 months for inspection by legally authorized officials of the United States Department of Agriculture, and the Illinois Department of Agriculture, and other officials having police powers. (See Section 1-1-1 of the Livestock Auction Market Law 1991 Rev. Stat. 1991, ch. 121-1/2, par. 200) [225 ILCS 640/1]-1

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 85.105 Obligation of Transportation Company and Truck Operators

a) Before accepting any livestock or dogs for shipment into the State of Illinois or consigned to points within the State of Illinois, except to public stockyards, every person, transportation company, or truck operator shall require that a certificate of health OR permit, as required in the regulations of the Department, be furnished them to be attached to the consignment and accompany the livestock or dog to its destination. Such person, transportation company, or truck operator shall have the certificate of health OR permit in his or its possession at all times from the loading of such livestock to the delivery of the livestock at its destination, and available for inspection upon demand. Such consignment shall show date, names of consignor and consignee, number and description of animals, and shall accompany all animals consigned to public stockyards.

b) No livestock shall be diverted en route within the State. When severe weather conditions, closures for any reason of slaughter plants, stockyards or auction markets, or other extenuating circumstances arise and/or the welfare of the livestock being shipped warrants such, a special permit for diversion enroute shall be granted by the Department Division.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 85.110 Additional Requirements on Cattle From Designated States

Female cattle, except those consigned direct to slaughter or calves under 6 months of age, entering Illinois for feeding purposes from states designated by the U. S. Department of Agriculture as Class B and Class C states under provisions of the Brucellosis Eradication Uniform Methods and Rules (May 0,

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1992 as amended February 2, 1993 and June 16, 1994) as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and the U.S. Department of Agriculture shall, in addition to present entry requirements now on file, be tagged in the right ear with an official ear tag identifying the cattle to the state of origin. The ear tag series shall be recorded on the official interstate health certificate, or on the owner-snipper statement. These official, uniformly numbered ear tags may be applied by anyone.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 85.115 Salmonella enteritidis serotype enteritidis**

- a) The United States Department of Agriculture has declared *Salmonella enteritidis* serotype enteritidis as a communicable disease in poultry. The rules pertaining to *Salmonella enteritidis* serotype enteritidis located at 9 CFR 82.30-82.36, 1995-1999 are hereby adopted for the State of Illinois. The flocks affected by these regulations are those identified in 9 CFR 82.31.
- b) All flocks found to be infected with *Salmonella enteritidis* serotype enteritidis shall be quarantined. The quarantine shall remain in effect until the flock has been depopulated and premises disinfected as prescribed in 9 CFR 82.32(c) or the entire flock is tested negative for *Salmonella enteritidis* serotype enteritidis in accordance with the provisions of 9 CFR 82.32(e).
- c) Interstate movement of poultry, eggs, equipment and manure from infected or test flocks shall be as specified in 9 CFR 82.33. Intrastate movement requirements shall be the same as interstate movement requirements.
- d) If a flock is determined to be an infected flock as defined in 9 CFR 82.32(c), the Department shall pay indemnity if State funds are available and all of the following conditions are met:
  - 1) The infected flock is implicated through epidemiological evidence in a human disease outbreak;
  - 2) The flock owner voluntarily agrees to depopulate with appropriate State indemnity;
  - 3) The entire flock which is to be depopulated shall have originated from a flock that is classified "U.S. S. Enteritidis" "48-S-~~Sanitation-Monitored~~" under the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145 and 147, 1995-1999);
  - 4) The flock owner must have been feeding the infected flock in accordance with the provisions of the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145.23(d), 1995-1999);
  - 5) The infected flock shall be slaughtered in accordance with 9 CFR 82.33(b). Proof of kill will be reported to the Department by the meat and poultry inspector of the slaughtering establishment

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where the infected poultry is slaughtered;

- 6) The premises has been disinfected in accordance with 9 CFR 82.32(c); and
- 7) Replacement poultry shall be from flocks that are classified "U.S. S. Enteritidis" "48-S-~~Sanitation-Monitored~~" under the National Poultry Improvement Plan and Auxiliary Provisions.

e) The amount of indemnity paid, based on the availability of State funds, shall be 75 percent of the fair market value and the health thereof at the time of slaughter, minus the salvage value. The following conditions shall be considered when determining the fair market value and health of the infected flock:

- 1) Initial purchase price of each bird;
- 2) Age of the bird and its egg production capabilities or value for producing progeny; and
- 3) Feed and veterinary medical production costs as justified by documentation by the flock owner in the form of sales receipts and veterinary bills.

f) The Department and the infected flock owner must agree upon the value of the poultry destroyed, and in the case as agreement cannot be made, indemnity will not be paid for the flock.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 85.130 Vesicular Stomatitis**

All veterinarians issuing Certificates of Veterinary Inspection for livestock including equine, bovine, porcine, caprine, ovine, and cervidae transported into Illinois from any state with a confirmed diagnosis of vesicular stomatitis within the past 30 days must include the following statement on the Certificate of Veterinary Inspection: "Vesicular stomatitis has not been diagnosed within ten miles of the premises of origin within the past thirty days. I have examined the premises of origin and have found no signs of vesicular stomatitis."

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Equine Infectious Anemia Control

2) Code Citation: 8 Ill. Adm. Code 116

3) Section Numbers: Proposed Action:

116.40 New Section

116.50 New Section

4) Statutory Authority: Illinois Equine Infectious Anemia Control Act [510 ILCS 65]

5) A Complete Description of the Subjects and Issues Involved:

A new Section (Section 116.40) is being added to govern the movement of equidae through sales and auction markets.

Field inspectors have been encountering cases where it is obvious that EIA test records have been altered to avoid having an animal tested. The most common alteration is changing the testing date. A regulation (Section 116.50) has been established to control this activity. Allowances have been made, however, for legitimate cases where a test record may need to be altered. This can occur if a veterinarian incorrectly records information on the test chart or if a change of owner's name is necessary due to the sale of an animal.

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Waketield  
Department of Agriculture

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## NOTICE OF PROPOSED AMENDMENT(S)

State Fairgrounds

P.O. Box 19281

Springfield, IL 63794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Markets and sales dealing in equidae

B) Reporting, bookkeeping or other procedures required for compliance: Section 116.40 outlines new procedures for equidae consigned for immediate slaughter moving through sales and livestock auction markets. Procedures for correcting EIA official test reports are established in Section 116.50.

C) Types of professional skills necessary for compliance: No additional professional skills are required.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS

CHAPTER 1: DEPARTMENT OF AGRICULTURE

SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS

(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 116

EQUINE INFECTIOUS ANEMIA CONTROL

Section

116.10 Testing of Illinois Equidae

116.20 Retesting of Reactors

116.30 Quarantining of Reactors

116.40 Movement of Equidae Through Livestock Sales and Livestock Auction Markets

116.50 Falsification of Records

AUTHORITY: Implementing and authorized by the Illinois Equine Infectious Anemia Control Act [510 ILCS 65].

SOURCE: Adopted at 18 Ill. Reg. 1861, effective January 24, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 116.40 Movement of Equidae Through Livestock Sales and Livestock Auction Markets

All equidae moving through sales or livestock auction markets or being hauled to sales or livestock auction markets must be accompanied by a negative test for equine infectious anemia within the past twelve months if over twelve months of age, unless the animal is consigned for immediate slaughter. Equidae consigned for immediate slaughter are not required to have a negative test for equine infectious anemia before arrival at the sale or auction but will be required to be sold with a mane tag indicating that the animal is for slaughter only, will have blood drawn for an equine infectious anemia test before leaving the sale or auction, and will only be allowed to leave the premises on a VS Form 1-27 which must accompany the animal to slaughter. Immediate slaughter means the animal must be delivered to a slaughtering facility within ten days after purchase or possession. All equidae consigned for slaughter only must be kept separate and apart from all other test equidae.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 116.50 Falsification of Records

No person shall change the names, dates, description or phrases on an official certificate of veterinary inspection or equine infectious anemia test chart to evade the provisions of the law. The veterinarian who originally drew the blood for an equine infectious anemia test may submit a corrected copy to the

laboratory that conducted the test with that laboratory reissuing the official test report. This corrected copy must be clearly marked as a corrected copy.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Feeder Swine Dealer Licensing

2) Code Citation: 68 Ill. Adm. Code 590

3) Section Numbers: Proposed Action:

590.5 Amendment

590.10 Amendment

590.30 Amendment

590.50 Amendment

590.100 New Section

4) Statutory Authority: Illinois Livestock Dealer Licensing Act [225 ILCS 520]

5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to "Division" are changed to "Department". References to the Illinois Revised Statutes are being deleted. A statutory amendment (see P.A. 89-154, effective July 19, 1995) requires the Department to develop the information that will be required on the feeder swine dealer license application (new Section 590.100). An amendment to Section 590.50 will require that slaughter animals be kept separate and apart from feeder swine. This is to protect the feeder swine from possible diseases that the slaughter animals may be carrying. Slaughter swine are not required to be tested for pseudorabies or brucellosis.

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the

ATTENTION:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

Department of Agriculture  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Feeder swine dealers.

B) Reporting, bookkeeping or other procedures required for compliance: License application information was formerly contained in the statute. New requirement: slaughter animals will need to be kept separate and apart from feeder swine.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:



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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER II: DEPARTMENT OF AGRICULTURE

## PART 590

## FEEDER SWINE DEALER LICENSING

## Section

- 590.5 Definitions  
590.10 Permanent Place of Business  
590.20 Agents (Repealed)  
590.30 Imported Feeder Swine  
590.40 Ear Tagging (Repealed)  
590.50 Duties of a Licensed Swine Dealer  
590.60 Maintenance of Records (Repealed)  
590.70 Surety Bonds (Repealed)  
590.80 Surety Bonds and Other Pledged Securities  
590.90 Feeder Swine Purchase and Movement Restrictions  
590.100 License Application

AUTHORITY: Implementing and authorized by the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620].

SOURCE: Rules and Regulations Relating to Feeder Swine Dealer Licensing Act, filed January 17, 1972, effective January 27, 1972; filed July 18, 1972, effective July 28, 1972; Authority Note amended 2 Ill. Reg. 34, pg. 177, effective August 24, 1978; codified at 5 Ill. Reg. 10571; amended at 10 Ill. Reg. 10087, effective May 21, 1986; amended at 18 Ill. Reg. 1865, effective January 24, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 590.5 Definitions

- a) Words in the singular form shall be deemed to include the plural, words in the masculine form shall be deemed to include the feminine form, and vice versa, as the case may require.
- b) The definitions for this Part shall be as set forth in the general definitions Section (8 Ill. Adm. Code 20.1). Also, the following definition shall apply to this Part:

"Act" means the Illinois Feeder Swine Dealer Licensing Act (~~111~~---Rev-Stat--1991--ch--117--par--201-et-seq--7 [225 ILCS 620]).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.10 Permanent Place of Business

Licensed feeder swine dealers shall have a permanent place of business and

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facilities for the holding of swine on his premises, subject to approval of the Department Division.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.30 Imported Feeder Swine

Feeder swine imported into Illinois shall be accompanied by a health certificate and permit, in compliance with Sections 10 and 11 of the Illinois Swine Disease Control and Eradication Act (~~111~~---Rev-Stat--1991--ch--87--par-510--and-511+ [510 ILCS 100/10 and 11] and the rules relating to importation of feeding swine (8 Ill. Adm. Code 105.10 and 105.20).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.50 Duties of a Licensed Swine Dealer

- a) Licensee under this Act shall provide suitable facilities at his place of business for yarding, feeding and watering of swine, and shall protect swine from inclement weather conditions at all times while they are on his premises.
- b) Sanitation of feeding, watering, and other facilities shall be maintained at all times.
- c) All floors shall be concrete or other hard surface as approved by the Department.
- d) No swine showing clinical or physical evidence of disease may be sold.
- e) Premises shall be opened for inspection by authorized Department inspectors.
- f) A feeder swine dealer or his agent shall in no way act as a peddler of feeder swine by traveling about from place to place with feeder swine in his possession, offering to sell, trade, give away, barter, exchange or dispose of them in any manner.
- g) Any slaughter swine on the premises must be kept separate and apart from any breeding or feeder swine.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.100 License Application

Applications by individuals for original licenses shall be made to the Department in writing on forms prescribed by the Department and shall be accompanied by the required bond and required fee which shall not be returnable. Any such application shall require such information as in the judgement of the Department will enable the Department to pass on the qualifications of the applicant for a license. This information shall include:

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but need not be limited to, information regarding legal address of the applicant, partners, corporate officers, managers, location(s) of holding facilities (if any), names and addresses of agents, bank and professional references, present and previous business connections and experience, whether any license dealing with the handling of livestock has ever been suspended or revoked, and whether the applicant ever has been convicted of a felony. Such felony convictions may be taken into consideration by the Department in determining qualifications for licensing but shall not operate as a bar to licensing.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Hatcheries, Poultry Flocks, and Produce Thereof

2) Code Citation: 8 Ill. Adm. Code 55

3) Section Numbers: Proposed Action:  
 55.10 Amendment  
 55.40 Amendment  
 55.45 Amendment  
 55.50 Amendment  
 55.90 Amendment  
 55.100 Amendment

4) Statutory Authority: Poultry Inspection Act (510 ILCS 85)

5) A Complete Description of the Subjects and Issues Involved: References to the Illinois Compiled Statutes have been added, and cites to the Code of Federal Regulations have been updated to reflect the most current printed version of these documents. The U. S. Department of Agriculture, under the National Poultry Improvement Plan, has changed the name of the U.S. Sanitation Monitored program to U.S. S. Enteritidis (corrected in Section 55.10(b)).

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
 Department of Agriculture  
 State Fairgrounds  
 P.O. Box 19281  
 Springfield, IL 62794-9281

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

Public Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Poultry industry (no adverse impact is anticipated)

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

D) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER 1: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

## PART 55

## HATCHERIES, POULTRY FLOCKS, AND PRODUCE THEREOF

## Section

|        |                                       |
|--------|---------------------------------------|
| 55.5   | Definitions                           |
| 55.10  | Shipments of Poultry or Hatching Eggs |
| 55.20  | Infected Flock                        |
| 55.30  | Classification of Flock               |
| 55.40  | Breeding Poultry                      |
| 55.45  | Turkeys                               |
| 55.50  | Persons Who May Perform the Test      |
| 55.60  | Inspection                            |
| 55.70  | Show and Exhibition Birds             |
| 55.80  | Banding                               |
| 55.90  | Sanitation                            |
| 55.100 | Administrative Hearing                |

AUTHORITY: Implementing and authorized by the Poultry Inspection Act [510 ILCS 35].

SOURCE: Regulations Relating to Hatcheries, Poultry Flocks, and the Produce Thereof, filed January 17, 1972, effective January 27, 1972; amended at 3 Ill. Reg. 33, p. 343, effective August 17, 1979; codified at 5 Ill. Reg. 10446; amended at 8 Ill. Reg. 5929, effective April 23, 1984; amended at 9 Ill. Reg. 18423, effective November 19, 1985; amended at 16 Ill. Reg. 11766, effective July 8, 1992; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 55.10 Shipments of Poultry or Hatching Eggs

a) All shipments of poultry or hatching eggs entering or moving within Illinois shall:

- 1) be accompanied by a "Report of Sales of Hatching Eggs, Chicks and Poults" (VS Form 9-3); or
- 2) be accompanied by a Certificate of Veterinary Inspection approved by the chief livestock official of the state of origin which states that the poultry originated from a flock that has been tested for pullorum and typhoid diseases within one year and was free of reactors to these diseases.

b) In addition to the above requirements, all poultry or hatching eggs entering or moving within Illinois for table egg production shall originate from a flock that meets the U.S. S. Enteritidis 9+5-  
~~Sanitation---Monitored~~ requirements under the National Poultry



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Improvement Plan (9 CFR 145, 1995 ~~1991~~) and Auxiliary Provisions on National Poultry Improvement Plan (9 CFR 147, 1995 ~~1991~~). Incorporation of federal rules does not include later amendments or editions.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

**Section 55.40 Breeding Poultry**

a) All breeding poultry (20 weeks of age or older) must be tested and comply with the National Poultry Improvement Plan (9 CFR 145 (1995 ~~1991~~)) and Auxiliary Provisions on National Poultry Improvement Plan (9 CFR 147 (1995 ~~1991~~)) for pullorum-typhoid. The Department participates in the National Poultry Improvement Plan as an Official State Agency cooperating through a Memorandum of Understanding. Incorporation of federal rules does not include later amendments or editions.

c) The Department only requires compliance with the expressed requirements of the National Poultry Improvement Plan in order for a participant to be in compliance with the Plan, except as provided for in this Part.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

**Section 55.45 Turkeys**

a) All turkeys entering Illinois and not consigned to slaughter must originate from flocks or hatcheries that are officially classified as U. S. Mycoplasma Gallisepticum Clean in accordance with the provisions of the National Poultry Improvement Plan (9 CFR 145.43(c) (1995 ~~1991~~)) or be negative to a test for Mycoplasma gallisepticum within 30 days prior to entry. Incorporation by reference shall not include later amendments or editions beyond the date specified.

b) Hatching eggs entering Illinois shall originate from hatcheries or flocks that are officially classified as U. S. Mycoplasma Gallisepticum Clean.

c) Turkeys and hatching eggs entering Illinois shall be accompanied by a health certificate which shall indicate either that the turkeys are negative to a test for Mycoplasma gallisepticum or that they originated from U. S. Mycoplasma Gallisepticum Clean flocks or hatcheries.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

**Section 55.50 Persons Who May Perform the Test**

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Persons officially approved by the Department may perform the stained-antigen, rapid, whole-blood test for pullorum-typhoid. Approval shall be given by the Department after the applicant has orally described and physically demonstrated proper testing procedures (found at 9 CFR 147.3 (1995 ~~1991~~)) to Department inspectors, veterinarians or laboratory personnel and has correctly interpreted test results. Each individual authorized to perform the test in the State will be sent a card showing their authorization to perform the test.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

**Section 55.90 Sanitation**

Participants in the National Poultry Improvement Plan shall comply with the sanitation requirements prescribed in Subpart C of 9 CFR 147 (1995 ~~1991~~), except that the Department accepts any fumigant that is registered by the United States Environmental Protection Agency and for which the manufacturer's label specifies the product is for egg sanitation or cleaning of poultry equipment.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

**Section 55.100 Administrative Hearing**

All decisions and actions of the Department are subject to the Illinois Administrative Procedure Act ~~111:--Rev.--Stat--1997--ch--127--pats--1001--et seq--7~~ [5 ILCS 100] and the Department's Administrative Rules (8 Ill. Adm. Code ~~111:--Rev.--Stat--1997--ch--127--pats--1001--et seq--7~~) which pertain to administrative hearings, petitions, proceedings, contested cases, declaratory rulings and availability of Department files for public access. Administrative hearings are governed by the Illinois Administrative Procedure Act and Subpart B of the Department's Administrative Rules.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_).

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Illinois Dead Animal Disposal Act

2) Code Citation: 8 Ill. Adm. Code 90

3) Section Number: Proposed Action:

90.105 New Section  
90.110 Amendment  
90.120 Amendment

4) Statutory Authority: Illinois Dead Animal Disposal Act [225 ILCS 610]

5) A Complete Description of the Subjects and Issues Involved: The Department is expanding existing composting regulations to include swine. This has been done at the request of agricultural interests, and the regulations have been drafted as a joint effort of the Illinois Pork Producers, Illinois Cooperative Extension Service, and the Department. Regulations have been developed regarding the conveyance of dead animals over the highways to a landfill by an owner or hired employee. This will expedite the disposal of the dead animal in accordance with the statute.

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
Department of Agriculture, State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments

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received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Farmers

B) Reporting, bookkeeping or other procedures required for compliance: Procedures for transporting a dead animal to a landfill are outlined in new Section 90.105, and procedures for the disposal of swine by composting are outlined in Section 90.110(e)

C) Types of professional skills necessary for compliance: Basic management and the disposal of dead animals in a timely fashion.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
 CHAPTER 1: DEPARTMENT OF AGRICULTURE  
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

## PART 90

## ILLINOIS DEAD ANIMAL DISPOSAL ACT

| Section |   |
|---------|---|
| 20.5    | Definitions   |
| 20.10   | Plant Facilities                                    |
| 20.20   | Plant Premises                                      |
| 20.30   | Annual Truck Permits (Repealed)                     |
| 20.40   | Truck Operator's Records (Repealed)                 |
| 20.50   | Odors and Insects Shall Be Controlled               |
| 20.60   | Salmonella Control for Renderers and Blenders       |
| 20.70   | Inspection of Premise (Repealed)                    |
| 20.80   | Identification of Receptacles                       |
| 20.90   | Records (Repealed)                                  |
| 20.100  | Transportation and Transactions (Repealed)          |
| 20.105  | Owner Transportation to Landfill                    |
| 20.110  | On-The-Farm Disposal                                |
| 20.120  | Collection Center                                   |
| 20.130  | Disposal By Collection Center of Unusable Materials |

AUTHORITY: Implementing and authorized by the Illinois Dead Animal Disposal Act (225 ILCS 610).

SOURCE: Regulations Relating to the Disposal of Dead Animals, filed January 17, 1972, effective January 27, 1972; filed December 6, 1972, effective December 16, 1972; codified at 5 Ill. Reg. 10458; amended at 7 Ill. Reg. 852, effective January 10, 1983; amended at 8 Ill. Reg. 5937, effective April 23, 1984; amended at 13 Ill. Reg. 3681, effective March 13, 1989; amended at 16 Ill. Reg. 11773, effective July 8, 1992; amended at 18 Ill. Reg. 14917, effective September 26, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 90.105 Owner Transportation to Landfill

When an owner or person employed by the owner is transporting a dead animal to a landfill that is open and willing to accept animals, the following guidelines shall apply:

- 1) The most direct route shall be utilized.
- 2) The bed of the vehicle transporting the animal shall have covering to prevent leakage to the road surface (e.g., plastic covering of animal).
- 3) The animal shall be covered during transport.

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(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 90.110 On-The-Farm Disposal

Persons disposing of animals, poultry, fish, or parts of bodies thereof, other than to a licensed renderer, shall comply with the following:

- a) Disposal by Burning.
  - 1) No open burning will be permitted.
  - 2) Any disposal by burning must be performed with an incinerator that is in compliance with the Illinois Environmental Protection Act (415 ILCS 5).
- b) Disposal by Burying.
  - 1) Burial shall be on the premises owned or operated by the owner of the dead animal.
    - A) Location shall be in an area where runoff will not contaminate water supplies or allow leachate to discharge into streams, ponds or lakes.
      - i) Dead animals shall not be buried less than 200 feet from a stream, private potable water supply well, or any other potable water supply source, except in accordance with Section 14.2(b) of the Illinois Environmental Protection Act.
      - ii) Dead Animals shall not be buried within the applicable 200 or 400 foot minimum setback zone of an existing community water supply well as established pursuant to Section 14.2 of the Illinois Environmental Protection Act.
  - B) Dead animals shall not be buried less than 200 feet from any existing residence not owned or occupied by the owner of the animal.
  - C) No more than a ratio of one pound of dead animals per one square foot of surface area shall be buried on an annual basis. No more than 3,000 pounds of dead animals shall be buried in each site location, and the same site shall not be used more frequently than once every two years for burial purposes. There shall be no more than three (3) site locations within a radius of 120 feet.
- 2) Burial depth shall be sufficient to provide at least a six-inch compacted soil cover over the uppermost part of the carcass. Precautions shall be taken to minimize soil erosion.
- 3) The animal carcass of large carcasses shall be punctured to allow escape of putrefactive gases.
- 4) Lime or other chemical agent shall not be used to prevent decomposition.
- 5) Precautions shall be taken at the site of burial necessary to prevent any disturbance by animal or mechanical means.
- 6) Disease and nuisance vectors are to be minimized and controlled.



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- 7) Final cover or settling shall be limited to a 5% or less slope differential from the normal gradient of its general surroundings.
- 8) Burial site locations shall be available for inspection by Department personnel during normal working hours.
- c) Disposal of poultry by composting. Persons disposing of poultry by means of composting shall comply with the following requirements:
- 1) The compost shall meet the following criteria:
    - A) A roof shall cover the entire composting area.
    - B) An impervious, weight-bearing foundation such as concrete shall be used.
    - C) Rot-resistant building materials such as preservative-treated lumber shall be used.
    - D) The compost shall consist of primary and secondary bins.
    - E) The size of the compost shall be based on the farm's projected mortality rate of poultry, in which one pound of dead poultry per cubic foot of primary compost space per day is provided.
  - 2) Composting shall comply with the following guidelines:
    - A) A mixture of one part dead poultry (by weight), one and one-half part poultry litter, and one-tenth part of straw shall be used. For example: 400 pounds of dead poultry will require 600 pounds of poultry litter and 40 pounds of straw.
    - B) Layering shall be done in the following order, starting from the floor: (First layer) Straw, poultry litter, straw, birds, and poultry litter. Second and subsequent layers: straw, birds, and poultry litter.
    - C) A 36-inch probe-type thermometer shall be inserted daily into the pile to check the temperature. Within two to four days, the temperature should peak between 135° F. and 150° F.
    - D) Once the temperature begins to fall from the peak (normally 7 to 10 days), the material shall be removed to the secondary treatment bin.
    - E) After 7 to 10 days in the secondary bin, the compost may be agronomically distributed over land under cultivation or reused in the composting process. For the purpose of this subsection, the agronomic rate is the annual application rate of poultry compost, either alone or in combination with other nutrient supplying materials, that is, necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.
  - 3) The composted material may be substituted for up to one-half of the poultry litter and one-half of the straw.
- d) Disposal of fish by composting. Persons disposing of fish by means of composting shall comply with the following requirements:
- 1) The compost shall meet the following criteria:
    - A) A roof shall cover the entire composting area.
    - B) An impervious, weight-bearing foundation such as concrete shall be used.
    - C) Rot-resistant building materials such as preservative-treated lumber shall be used.
    - D) The base layer shall meet the following criteria:
      - A) Use 6 to 12 inches thick of a bulking agent.
      - B) Be no more than 6 to 8 feet wide, but as long as necessary to accommodate the day's supply of compost material.
    - E) Composting shall meet the following guidelines:
      - A) Composting layer shall consist of a mixture of one part fish, three parts bulking agent and one part recycled compost (if available) or bulking agent and shall be mixed prior to use in the composting layer. The mixing of the materials for the composting layer shall be done in a manner to prevent leakage (e.g., stock tank, bucket, mixing drum).
      - B) The cover layer shall consist of two parts bulking agent and two parts recycled compost (if available) or two parts bulking agent and should reach a thickness of 6 to 12 inches.
      - C) Layering shall be done in the following order starting from the concrete: base layer, composting layer (fish, bulking agent and recycled compost), and cover layer. The composting and cover layers are piled on top of the base layer to form a trapezoid no higher than 4 feet.
      - D) Additions to the compost pile are done by adding new material to the end of the pile.
      - E) A probe-type thermometer shall be inserted daily into the pile to check the temperature. The temperature should peak between 140° F. and 165° F. The material can be recycled after it has composted for at least 2 to 3 weeks, and its temperature has dropped to air temperature.
      - F) After the temperature has dropped to air temperature (normally 2 to 3 weeks), the composted material may be used in the composting layer, or after one month, the composted material may be agronomically distributed over land under cultivation or reused in the cover layer. For the purpose of this subsection, the agronomic rate is the annual application rate of fish compost, either alone or in combination with other nutrient supplying materials, that is, necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.
- e) Disposal of swine by composting. Persons disposing of swine by means of composting shall comply with the following requirements:
- 1) The compost shall be located entirely over impervious foundation materials.
    - A) One of two foundations shall be used:
      - 1) Impervious soil (permeability equal to or less than 1

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- A) A roof shall cover the entire composting area.
  - B) An impervious, weight-bearing foundation such as concrete shall be used.
  - C) Rot-resistant building materials such as preservative-treated lumber shall be used.
- 2) The base layer shall meet the following criteria:
- A) Use 6 to 12 inches thick of a bulking agent.
  - B) Be no more than 6 to 8 feet wide, but as long as necessary to accommodate the day's supply of compost material.
- 3) Composting shall meet the following guidelines:
- A) Composting layer shall consist of a mixture of one part fish, three parts bulking agent and one part recycled compost (if available) or bulking agent and shall be mixed prior to use in the composting layer. The mixing of the materials for the composting layer shall be done in a manner to prevent leakage (e.g., stock tank, bucket, mixing drum).
  - B) The cover layer shall consist of two parts bulking agent and two parts recycled compost (if available) or two parts bulking agent and should reach a thickness of 6 to 12 inches.
  - C) Layering shall be done in the following order starting from the concrete: base layer, composting layer (fish, bulking agent and recycled compost), and cover layer. The composting and cover layers are piled on top of the base layer to form a trapezoid no higher than 4 feet.
  - D) Additions to the compost pile are done by adding new material to the end of the pile.
  - E) A probe-type thermometer shall be inserted daily into the pile to check the temperature. The temperature should peak between 140° F. and 165° F. The material can be recycled after it has composted for at least 2 to 3 weeks, and its temperature has dropped to air temperature.
  - F) After the temperature has dropped to air temperature (normally 2 to 3 weeks), the composted material may be used in the composting layer, or after one month, the composted material may be agronomically distributed over land under cultivation or reused in the cover layer. For the purpose of this subsection, the agronomic rate is the annual application rate of fish compost, either alone or in combination with other nutrient supplying materials, that is, necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.
- e) Disposal of swine by composting. Persons disposing of swine by means of composting shall comply with the following requirements:
- 1) The compost shall be located entirely over impervious foundation materials.
    - A) One of two foundations shall be used:
      - 1) Impervious soil (permeability equal to or less than 1

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10(7) cm/sec. as defined in Section 65L.0705 "Geotechnical considerations in waste facility siting", Agricultural Waste Management Field Handbook, Soil Conservation Service, U.S. Department of Agriculture, 1992). A 4- to 6-inch base of ungraded varying particle size field lime over the soil foundation is suggested as a runoff control measure.

1) an impervious, weight-bearing foundation such as concrete, lime, or asphalt.

2) Surface water shall be diverted away from the composter.

3) Location shall be in an area where runoff will not contaminate water supplies or allow leachate to discharge into streams, ponds or lakes.

A) Composter shall not be constructed less than 200 feet from a stream, private potable water supply well, or any other portable water supply source, except in accordance with Section 14.2(b) of the Illinois Environmental Protection Act.

3) Composter shall not be constructed within the applicable 200 or 400 foot minimum setback zone of an existing community water supply well as established pursuant to Section 14.2 of the Illinois Environmental Protection Act.

4) The composter shall consist of primary and secondary bins. The size of the composter shall be based on the farm's projected mortality rate of swine during any three-month period. The primary and secondary bins shall each contain a minimum of 10 square feet of composting area for each 1000 pounds of carcass to be composted.

5) The composter shall be constructed of permanent rot-resistant wall materials, such as preservative-treated wood, concrete, or precast concrete such as highway lane dividers. Each composter bin shall be three sides of a rectangle or square. One side of the bin shall be left open for loading, unloading and mixing the compost. In emergency situations, hay bales of 48 inches or greater in diameter may be used on a temporary basis in the above configuration of side walls.

6) Compost shall comply with the following guidelines:

A) Sawdust shall be the primary carbon source material. Other carbon source materials may be used for no more than fifty percent (by volume) of the total carbon source, with sawdust making up the remaining fraction. When more than one carbon source material is used, sawdust shall be distributed by mixing throughout the secondary carbon source materials. Other carbon source materials shall include chopped straw, chopped corn cobs, or shredded newspaper.

3) It is expected that sawdust will be required in the ratio of approximately one cubic foot of sawdust per one pound of

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carcass). A supply of sawdust shall be stockpiled and maintained on the premises at all times when the composter is in operation.

C) Each compost bin shall have a layer of sawdust a minimum of 10 inches deep placed on the floor before the first carcass is placed in the bin. There shall be a minimum of 10 inches of sawdust between the carcass and each of the vertical walls of the bin. The carcass shall be covered with a minimum of 10 inches of sawdust. Sawdust shall be added to the pile as composting begins, daily or as frequently as needed to sustain a 10 inch cover of sawdust over all carcasses in the bin's uppermost layer.

D) A compost thermometer with a probe at least 36" long shall be obtained and used daily to measure the temperature of the compost in the middle of each bin. The compost temperature should reach 135 to 160 degrees F. (57 to 71 C.) and be recorded daily. Compost temperature indicates microbial activity and stage of composting process. The composting process shall be managed in such a way that the heating and decomposition can proceed to completion. If aerobic composting does not begin with 7 days, i.e., if temperatures do not rise above 135 F., the compost pile shall be turned and moisture content of the sawdust adjusted to allow the process to proceed. Temperature records shall be available for examination until the compost is disposed of as in subsection (G) below.

E) Sawdust and carcasses may be placed in the bin until the bin is full.

F) All compost from the primary bin shall be allowed to undergo a second composting phase as follows:

1) When the temperature surrounding the last carcass placed in the composter drops below 130 degrees F. (typically up to three months after the last carcass addition), the compost in that bin shall be transferred to a second bin and allowed to reheat, through a second composting cycle. Moisture shall be added to the compost as needed to promote further composting activity.

11) Compost shall remain in the second bin for the duration of the secondary composting cycle (typically three months). Temperature of the compost shall be measured using the compost thermometer to monitor the composting process.

3) Finished compost shall be approximately 100 percent water and under cultivation or reused in the composting process. Finished compost may be returned to the primary composting bin in the ratio of up to 50 percent finished compost to fresh sawdust.

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(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 90.120 Collection Center

A collection center shall comply with the following requirements:

- a) The location of a collection center shall be in compliance with local zoning ordinances before the Department will issue a license.
- b) The collection center shall be covered by a metal roof or other permanent type structure. The building shall be equipped with louver-type ventilators which are so screened as to prevent rodents and other animals, birds, flies, and insects from entering.
- c) Hot water or steam shall be provided to thoroughly clean the collection center premises.
- d) The collection center equipment and premises shall be disinfected with a product approved by the United States Department of Agriculture (9 CFR 71.10 (1995) (1994)). Incorporation by reference does not include any amendments or editions beyond the date specified and may be viewed and/or copied at the Department's Springfield office.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Illinois Pseudorabies Control Act
- 2) Code Citation: 8 Ill. Adm. Code 115
- 3) Section Number: Proposed Action:

|         |           |
|---------|-----------|
| 115.10  | Amendment |
| 115.80  | Amendment |
| 115.100 | Amendment |
- 4) Statutory Authority: Illinois Pseudorabies Control Act (510 ILCS 90)
- 5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to Division are changed to Department. Cites to the Code of Federal Regulations and the Pseudorabies Eradication State-Federal-Industry Program Standards have been updated to reflect the most current printed versions of these publications.
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
Department of Agriculture, State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-3281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.



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The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

## 1.2) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: These amendments will have no adverse impact on small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

3) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

## PART 115

## ILLINOIS PSEUDORABIES CONTROL ACT

| Section |  |
|---------|--|
| 115.10  | Definitions  |
| 115.15  | Incorporation by Reference   |
| 115.20  | Pseudorabies Quarantines   |
| 115.30  | General Requirements for Qualified Pseudorabies Negative, Negative Gene-Altered Vaccinated and Feeder Swine Pseudorabies Monitored Herds |
| 115.40  | Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds  |
| 115.50  | Requirements for Establishing and Maintaining Pseudorabies Negative Gene-Altered Vaccinated Swine Herds                                  |
| 115.60  | Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds  |
| 115.70  | Pseudorabies Test Requirements for Intrastate Movement   |
| 115.80  | Pseudorabies Testing of Feeder Swine   |
| 115.90  | Feeder Swine   |
| 115.100 | Breeding Animals Consigned to Slaughter  |

AUTHORITY: Implementing and authorized by the Illinois Pseudorabies Control Act [510 ILCS 90].

SOURCE: Adopted at 12 Ill. Reg. 3394, effective January 22, 1988; amended at 13 Ill. Reg. 3685, effective March 13, 1989; amended at 14 Ill. Reg. 1935, effective January 19, 1990; amended at 14 Ill. Reg. 5065, effective March 21, 1990; amended at 14 Ill. Reg. 15318, effective September 10, 1990; amended at 16 Ill. Reg. 11781, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5906, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 14006, effective August 16, 1993; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 115.10 Definitions

The definitions for this Part shall be as set forth in the general definitions Section (8 Ill. Adm. Code 20.1). Also, the following definitions shall apply to this Part:

"Act" means the Illinois Pseudorabies Control Act [510 ILCS 90] and its amendments.

"Official test" or "test" means any serologic test for the detection

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of pseudorabies (serum neutralization (SN), for example) as approved by the United States Department of Agriculture (9 CFR 85.1, 1995) †99† and conducted in an approved laboratory.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 115.80 Pseudorabies Testing of Feeder Swine**

a) Swine for feeding purposes shall, in addition to complying with the other requirements of this Part and 8 Ill. Adm. Code 105.10, enter or move within Illinois without further testing requirements for pseudorabies if:

- 1) The swine are from a qualified pseudorabies negative herd, a pseudorabies negative gene-altered vaccinated herd, or a feeder swine pseudorabies monitored herd; or
- 2) The swine are from a herd in which a representative sample of animals 6 months of age and over have been tested and are negative to an official serological test for pseudorabies within the preceding 12 months. In herds of 35 animals or less, a representative sample is all swine 6 months of age and over or at least 10 animals, whichever is less. In herds of 36 animals or more, a representative sample is a minimum of 30 percent or 30 animals that are 6 months of age and over, whichever is less; or
- 3) The swine originate from a state that has been classified as Stage III, IV or V under the Pseudorabies Eradication State-Federal-Industry Program Standards (Jan., 1995) †99† as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176) or originate from a country that meets the requirements for Stage V. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

b) Swine tested for pseudorabies under a market swine testing program (Section 115.100) shall be included in the representative sample required in subsection (a)(2).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 115.100 Breeding Animals Consigned to Slaughter**

Before being mixed with swine from any other source, all breeding animals consigned to slaughter or offered for sale for slaughter shall be identified to the herd of origin by an approved identification tag in accordance with the Swine Identification Program (9 CFR 78.33, 1995) †99†. The tag shall be applied to the back of the neck of each animal. A report of such

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Identification shall be made on forms provided by the United States Department of Agriculture and shall be submitted to the Department Division within 30 days of application. If such swine are slaughtered in Illinois, the management of the Illinois slaughter facility shall, upon written request from the Department or from the U.S. Department of Agriculture, provide for or permit the collection of blood samples for testing from the identified swine.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Livestock Auction Markets

2) Code Citation: 8 Ill. Adm. Code 40

3) Section Numbers: Proposed Action:

40.5 Amendment

40.60 Amendment

40.120 Amendment

40.130 Amendment

40.160 Amendment

40.170 Amendment

40.190 Amendment

4) Statutory Authority: Livestock Auction Market Law [225 ILCS 640] and Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/40.23]

5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to Division are changed to Department. An allowance has been made to allow the movement of feeder swine into Illinois without an identification tag as long as they are not commingled with feeder swine from another location or owner before arrival. The hogs are immediately tagged upon arrival at the market to allow for the tracing of the animal back to the herd of origin. This will facilitate the flow of out-of-state feeder swine entering Illinois markets.

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Office Manager:

## DEPARTMENT OF AGRICULTURE

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Department of Agriculture  
State Fairgrounds, P.O. Box 19281  
Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: These amendments will ease tagging requirements for feeder swine entering the State.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summerized: July 1995

The full text of the Proposed Rules begins on the next page:



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## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
 CHAPTER 1: DEPARTMENT OF AGRICULTURE  
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

## PART 40

## LIVESTOCK AUCTION MARKETS

| Section |   |
|---------|---|
| 40.5    | Definitions   |
| 40.10   | Fee to Accompany Application Not To Be Refunded               |
| 40.20   | Release of Livestock for Interstate Shipment                  |
| 40.30   | Veterinary Inspection   |
| 40.40   | Veterinary Office   |
| 40.50   | Detection of Diseased Animals                                 |
| 40.60   | Bovine Brucellosis  |
| 40.70   | Quarantine Pen  |
| 40.80   | The Sale of Livestock for Immediate Slaughter                 |
| 40.90   | Test Chute  |
| 40.100  | Brucellosis Test  |
| 40.110  | Sale of Official Brucellosis Calfhood Vaccinates              |
| 40.120  | Feeder Cattle Subject to Quarantine                           |
| 40.130  | Backtagging   |
| 40.140  | Yarding and Housing   |
| 40.150  | Display License (Repealed)                                    |
| 40.160  | Sale Day  |
| 40.170  | Swine   |
| 40.180  | Swine Which React to Test for Brucellosis                     |
| 40.190  | Sheep   |
| 40.200  | Surety Bonds and Other Pledged Security                       |
| 40.210  | Cancellation of Escrow Agreements (Personal Bonds) (Repealed) |
| 40.220  | Swine Movement Limitations (Repealed)                         |
| 40.230  | Disposition of Rejected Feeding or Breeding Swine             |
| 40.240  | Director To Be Named Trustee (Repealed)                       |

AUTHORITY: Implementing and authorized by the Livestock Auction Market Law (225 ILCS 640) and Section 40.23 of the Civil Administrative Code of Illinois [20 ILCS 205/40.23].

SOURCE: Regulations Relating to Livestock Auction Markets, filed January 17, 1972, effective January 27, 1972; filed May 3, 1972, effective May 13, 1972; filed December 14, 1973, effective December 24, 1973; filed March 2, 1976, effective March 12, 1976; amended at 2 Ill. Reg. 24, p. 73, effective June 15, 1978; codified at 5 Ill. Reg. 10442; amended at 8 Ill. Reg. 5956, effective April 23, 1984; amended at 10 Ill. Reg. 9754, effective May 21, 1986; amended at 12 Ill. Reg. 3411, effective January 22, 1988; amended at 14 Ill. Reg. 1943, effective January 19, 1990; amended at 16 Ill. Reg. 11793, effective July 8, 1992; amended at 18 Ill. Reg. 1869, effective January 24, 1994; amended at 19

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Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 40.5 Definitions

Definitions for the rules of this Part can be located in the general definitions Section (8 Ill. Adm. Code 20.1). The following definition shall also apply to the rules of this Part:

"Act" means the Livestock Auction Market Law (~~411 Rev. Stat.~~ ~~1991~~ ~~chs. 121-127~~ ~~par. 288 et seq.~~ [225 ILCS 640]).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 40.60 Bovine Brucellosis

a) Cattle which, upon being tested for brucellosis at a livestock auction market, are classified as reactors to the official test shall be placed in the quarantine pen and sold for immediate slaughter.

b) The reactors when sold for slaughter shall be delivered to a public stockyard or recognized slaughtering establishment and be positively identified and branded as provided by Section 5 of the Illinois Bovine Brucellosis Eradication Act (~~411 Rev. Stat.~~ ~~1991~~ ~~chs. 121-127~~ ~~par. 1381~~ [510 ILCS 30/5 ~~as amended by P.A. 88-317~~ ~~effective July 14, 1993~~ and ~~P.A. 88-4577~~ ~~effective August 20, 1993~~). The purchaser of the reactors shall sign a VS Form 1-27, "Permit For Movement of Animals." Illinois brucellosis reactors disclosed at other than a livestock auction market may be consigned to a livestock auction market designated as a marketing center if accompanied by official VS Form 1-27, "Permit For Movement of Animals". A new VS Form 1-27 shall be prepared by the livestock auction market veterinarian and shall accompany the reactor to slaughter.

c) When one or more brucellosis reactors are disclosed in a group of cattle, the negative cattle which have been in contact with the reactors for more than 24 hours shall be either returned to the farm of origin under quarantine OR shipped directly to a recognized slaughtering establishment or a public stockyard, accompanied by VS Form 1-27 to be sold for slaughter only. Unless cattle are being returned to the farm of origin, they shall be identified by an ear tag provided by the Department of Agriculture and by branding with a hot iron the letter "S" on the left jaw in letters not less than 2 nor more than 3 inches in height, before the cattle leave the livestock auction market.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 40.120 Feeder Cattle Subject to Quarantine

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All female cattle of beef breeds over 6 and under 18 months of age sold or released from a livestock auction market for feeding or grazing purposes are subject to quarantine (8 Ill. Adm. Code 75.130) and shall be reported on Form M-107 Revised to the Department Division following each sale or at the end of each week.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 40.130 Backtagging**

All cattle over 2 years of age consigned to a livestock auction market shall comply with the Market Cattle Identification Program as follows:

- Each animal shall be backtagged with an official Illinois market cattle backtag.
- Cattle that are blood tested for brucellosis by the livestock auction market veterinarian shall have the backtag marked through with a yellow crayon or yellow paint.
- Report of such backtagging on forms provided by the United States Department of Agriculture shall be submitted to the Department Division within 7 days of backtag application.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 40.160 Sale Day**

The regular sale day shall be recorded with the Department Division of Animal Industries. All special sales or changes in the regular sale day shall be reported to the Department Division at least 5 days prior to such change or sale.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 40.170 Swine**

- In no case shall swine remain on the livestock auction market premises for more than 10 days.
- Out-of-state feeder swine shall enter Illinois accompanied by a health certificate and a permit (8 Ill. Adm. Code 105.10) and be ear tagged to show state of origin, except that feeder swine consigned from the farm of origin directly to a federally approved market shall be tagged immediately upon arrival at the market. Such swine shall move directly into Illinois from the state of origin. A report of sale shall be made within 48 hours of the time of sale (on Form Z-5) to the Department Division of Animal Industries, stating name and address of purchaser and number of animals purchased. Such swine shall be

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quarantined to the purchaser for 21 days by the Department Division (8 Ill. Adm. Code 105.20).

- Ear tag identification of swine, together with the name and address of consignor and purchaser, date of sale, breed and number purchased, shall be made a part of the records of the livestock auction market before swine leave the livestock auction market.

- In accordance with Section 2 of the Illinois Swine Brucellosis Eradication Act (Ill. Rev. Stat. 1991, ch. 97, par. 1-14(g)) [225 ILCS 35/2], all breeding swine 4 months of age and over shall be negative to an official test for brucellosis within 60 days prior to sale or originate from a validated brucellosis-free herd. Such test shall be recognized for one change of ownership or premises only within the 60-day period.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 40.190 Sheep**

- Livestock auction market veterinarians are required to check each consignment of sheep at time of presentation at the sale to determine that to the best of their knowledge and belief the sheep are free from infectious and communicable diseases.

- When diseased sheep, except those exhibiting evidence of contagious foot rot, are found at a livestock auction market, the livestock auction market veterinarian shall immediately place the diseased sheep under quarantine and order the owner to return such sheep to his premises under quarantine. The livestock auction market veterinarian shall notify the Department Division of such quarantine. The quarantine will remain in effect until the Department Division receives notice of the death of the sheep, OR receives a report from a licensed veterinarian that the animal or animals have recovered and are in a healthy condition.

- When sheep exhibit evidence of contagious foot rot, such sheep shall be tagged with the "slaughter only" red ear tag and be accompanied directly to slaughter by Form C-24a, revised.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Livestock Dealer Licensing

2) Code Citation: 68 Ill. Adm. Code 610

3) Section Numbers: Proposed Action:

610.10 Amendment  
610.30 Amendment  
610.40 Amendment  
610.50 Amendment  
610.60 Amendment  
610.100 Amendment  
610.150 New Section

4) Statutory Authority: Illinois Livestock Dealer Licensing Act (225 ILCS 645)

5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to "Division" are changed to "Department". References to the Illinois Revised Statutes are being deleted. The reference to "downer cows" is being deleted as these animals are now covered under the Humane Care for Animals Act (510 ILCS 70/7.5), and it is illegal to move these types of animals to an auction market. The scientific reference for cancer eye has been corrected. A statutory amendment (see P.A. 89-154, effective July 19, 1995) requires the Department to develop the information that will be required on the livestock dealer license application (new Section 610.150).

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

## DEPARTMENT OF AGRICULTURE

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Debbie Wakefield  
Department of Agriculture  
State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Livestock dealers.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements as the license application information was formerly contained in the statute.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda in which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:



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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER II: DEPARTMENT OF AGRICULTURE

## PART 610

## LIVESTOCK DEALER LICENSING

| Section | Definitions   |
|---------|---|
| 610.5   | Entry Requirements  |
| 610.10  | Breeding Cattle Health Requirements (Repealed)                |
| 610.20  | Swine Health Requirements                                     |
| 610.30  | Prevention of Spread of Livestock Diseases                    |
| 610.40  | Feeder Cattle   |
| 610.50  | Slaughter Animals   |
| 610.60  | Care of Livestock (Repealed)                                  |
| 610.70  | Inspection  |
| 610.80  | Identification Not to be Removed or Altered                   |
| 610.90  | Compliance with Market Cattle Identification Program          |
| 610.100 | Surety Bonds and Other Pledged Security                       |
| 610.110 | Cancellation of Escrow Agreements (Personal Bonds) (Repealed) |
| 610.120 | Director as Trustee on Surety Bonds (Repealed)                |
| 610.130 | Dealer's Agent (Repealed)                                     |
| 610.140 | License Application   |
| 610.150 |   |

**AUTHORITY:** Implementing and authorized by the Illinois Livestock Dealer Licensing Act [225 ILCS 645].

**SOURCE:** Rules and Regulations Relating to the Livestock Dealer Licensing Act, filed January 17, 1972, effective January 27, 1972; amended May 3, 1972, effective May 13, 1972; June 20, 1973, effective July 1, 1973; April 5, 1976, effective April 15, 1976; amended at 2 Ill. Reg. 34, p. 166, effective August 24, 1978; codified at 5 Ill. Reg. 10573; amended at 8 Ill. Reg. 5973, effective April 23, 1984; amended at 13 Ill. Reg. 3690, effective March 13, 1989; amended at 18 Ill. Reg. 1875, effective January 24, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 610.10 Entry Requirements**

All livestock imported into the State shall meet Illinois entry requirements as may be set forth in those Acts listed in Section 19.1 of the Illinois Livestock Dealer Licensing Act ~~441-Rev-Stat-1991-Ch-111-Par-420-11~~ [225 ILCS 645/19.1]. Livestock dealers shall submit to the Department ~~Division~~, on Department ~~Division~~ Form M-106, weekly reports of all out-of-state livestock.

Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 610.30 Swine Health Requirements**

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- a) All Illinois breeding swine 4 months of age and over purchased by a licensed livestock dealer shall comply with the Illinois Swine Brucellosis Eradication Act ~~441-Rev-Stat-1991-Ch-87-Par-148f-11~~ ~~Seq-7~~ [510 ILCS 95].

- b) All breeding swine sold or purchased by a licensed livestock dealer through a livestock auction market shall comply with the requirements of the Livestock Auction Market Law and rules (8 Ill. Adm. Code 40.170(e)).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 610.40 Prevention of Spread of Livestock Diseases**

All other species of breeding livestock, to wit: cattle and sheep, shall comply with the laws and rules as listed in Section 19.1 of the Illinois Livestock Dealer Licensing Act ~~441-Rev-Stat-1991-Ch-111-Par-420-11~~ [225 ILCS 645/19.1] relating to such livestock.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 610.50 Feeder Cattle**

Livestock dealers purchasing animals for feeding purposes shall:

- a) Keep such cattle separate from breeding cattle.
- b) Submit to the Department ~~Division~~ a weekly report (on Department ~~Division~~ Form M-107) of the sale of all female feeder cattle over 6 months of age and under 18 months of age, giving the date of each sale, number sold, age, breed, and the name and address of the purchaser.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 610.60 Slaughter Animals**

Livestock dealers purchasing animals for slaughter purposes only (cattle, swine or sheep) shall:

- a) Keep slaughter animals isolated from all breeding and feeder animals.
- b) Be sold within 10 days of purchase direct to a public stockyard or recognized slaughter establishment under State or Federal supervision. Slaughter cattle from farm of origin may be consigned direct to a recognized slaughter establishment, or public stockyard, or licensed livestock auction market under State or Federal supervision (except the type of cattle mentioned in subsection (c) below).

- c) Maintain records on each head of livestock purchased in accordance with Section 17 of the Illinois Livestock Dealer Licensing Act ~~441-Rev-Stat-1991-Ch-111-Par-420-11~~ [225 ILCS 17.1].

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purchased at less than prevailing market price, such as--"downer" cows, cows with squamous cell carcinoma epithelioma (cancer eye), crippled animals, and animals whose general physical appearance would indicate they are not healthy or are suffering from malnutrition shall be consigned directly to a recognized slaughtering establishment under State or Federal supervision.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 610.100 Compliance with Market Cattle Identification Program

All female cattle over 2 years of age consigned to a livestock auction market shall comply with the Market Cattle Identification Program as follows:

a) Each animal shall be backtagged by the livestock dealer with an official market cattle backtag.

b) Reports of such backtagging shall be submitted to the Department Division on forms provided by the United States Department of Agriculture within 7 days of application of the backtag.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 610.150 License Application

Application by individuals for original licenses shall be made to the Department in writing on forms prescribed by the Department and shall be accompanied by the required bond and required fee which shall not be returnable. Any such application shall require such information as in the judgement of the Department will enable the Department to pass on the qualifications of the applicant for a license. This information shall include, but need not be limited to, information regarding legal address of the applicant, partners, corporation officers, managers, location(s) of holding facilities (if any), names and addresses of agents, bank and professional references, present and previous business connections and experience, whether any license dealing with the handling of livestock has ever been suspended or revoked, and whether the applicant ever has been convicted of a felony. Such felony convictions may be taken into consideration by the Department in determining qualifications for licensing, but shall not operate as a bar to licensing.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

- 1) Heading of the Part: Swine Brucellosis
- 2) Code Citation: 8 Ill. Adm. Code 100
- 3) Section Number: Proposed Action:  
100.10 Amendment  
100.30 Amendment
- 4) Statutory Authority: Illinois Swine Brucellosis Eradication Act [510 ILCS 95] and the Illinois Pseudorabies Control Act [510 ILCS 90] and the Illinois Diseased Animals Act [510 ILCS 50]
- 5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to "Division" are changed to "Department". References to the Illinois Revised Statutes are being deleted. Cites to the Code of Federal Regulations have been updated to reflect the most current printed version of these documents.
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
Department of Agriculture, State Fairgrounds  
P.O. Box 19281  
Springfield, IL 62794-9281

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

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The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Swine Producers

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER 1: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 100  
SWINE BRUCELLOSIS

| Section | Requirements for Establishing and Maintaining               | Validated |
|---------|---|-----------|
| 100.10  | Brucellosis-Free Herds of Swine                             |           |
| 100.20  | Brucellosis Reactors Disclosed in Non-Validated Swine Herds |           |
| 100.30  | Breeding Animals Consigned to Slaughter                     |           |

**AUTHORITY:** Implementing and authorized by the Illinois Swine Brucellosis Eradication Act [510 ILCS 95] and the Illinois Pseudorabies Control Act [510 ILCS 90] and the Illinois Diseased Animals Act [510 ILCS 50]

**SOURCE:** Adopted at 2 Ill. Reg. 24, p. 55, effective June 15, 1978; codified at 5 Ill. Reg. 10460; amended at 7 Ill. Reg. 871, effective January 10, 1983; amended at 11 Ill. Reg. 10531, effective May 21, 1987; amended at 12 Ill. Reg. 3432, effective January 22, 1988; amended at 14 Ill. Reg. 1953, effective January 19, 1990; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 100.10 Requirements for Establishing and Maintaining Validated Brucellosis-Free Herds of Swine

## a) General Requirements

- 1) Validated brucellosis-free herd certificates are issued cooperatively by the Department ~~Division~~ and the Animal and Plant Health Inspection Service.
- 2) Validation shall be extended upon evidence of compliance with the requirements for maintenance of a validated brucellosis-free swine herd as provided in this rule.
- 3) All blood samples for validation or revalidation shall be collected by an accredited veterinarian and shall be submitted for diagnosis to an approved laboratory. Information concerning approved laboratories can be obtained from the Department ~~Division of Animal Industries~~. The veterinarian should indicate on each test chart that the test is being conducted to qualify a swine herd for validation or revalidation.
- 4) Initial tests to qualify for validation shall be made at owner's expense except as specified under subsection (b)(2) of this Section.
- 5) A "validated herd" shall consist of at least 5 animals and shall be considered as including all animals in the herd 6 months of age or over. All swine being held for feeding purposes, separate



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and apart from breeding swine, are exempted from herd test requirements.

- 6) Any purebred animal OR any inbred or hybrid animal registered with a livestock registry association shall be identified by registration number, registry association approved individual tattoo, ear notch, or an ear tag. Any grade animal shall be identified by an ear tag or tattoo. If any animal is retagged between tests, the identification of the previous test shall be shown on the test chart opposite new retag number.

## b) To Qualify for Validation

- 1) Herds which have shown no previous infection may be validated upon completion of one negative herd test of all breeding swine 6 months of age and over. Validation applies to all offspring, including Specific Pathogen-Free (SPF) pigs from such herds.
- 2) When reactors are disclosed in a herd in the process of becoming validated, the entire herd is placed under quarantine and the reactors shall be immediately isolated from the remainder of the herd. The reactor animals shall be tagged in the left ear with a reactor identification tag, disposed of within 15 days of report by the laboratory, a report of disposal made to the Department Division, and the entire herd subjected to brucellosis retests at intervals of not less than 30 nor more than 90 days. Quarantine will be released upon completion of one negative complete herd test; completion of two consecutive negative complete herd tests will qualify a herd for validation. (Complete herd retest for release of quarantine shall be at State expense, provided funds are available.)

## c) Maintenance Requirements

- 1) Validated brucellosis-free herd status is maintained by subjecting all swine over 6 months of age in the herd to an official brucellosis serologic test at least once each year (this shall be accomplished by testing 25 percent of swine over 6 months of age every 80 to 105 days and finding all swine so tested negative, or by testing 10 percent of the swine over 6 months of age each month and finding all swine so tested negative). No swine may be tested twice in one year to comply with the 25 percent requirement nor twice in ten months to comply with the 10 percent requirement. If the members of the validated herd are maintained on more than one premises, 25 or 10 percent of the swine on each premises shall be retested as required. If the 25 or 10 percent retests are not conducted when due, the revalidation requirements shall then be the same as for initial validation.

## 2) Reactors:

If reactors are disclosed on the 25 percent quarterly or 10 percent monthly test, the herd will be quarantined and the validated herd status suspended until a herd test is conducted. Such test may be at State expense, provided funds are available.

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The herd test should be conducted within 30 days of disclosure of the reactor. A negative test will qualify the herd for release of quarantine and revalidation. If additional reactors are disclosed, the herd will be considered again in the process of validation as under subsection (b) (2) of this Section.

## 3) Additions to Validated Brucellosis-Free Swine Herds:

- A) Native Animals:
  - i) Animals originating directly from a validated herd in good standing, without test (owner shall furnish proof of same to the Department), or
  - ii) Animals from non-validated herds provided they have passed a negative test within 60 days and are held in isolation from the validated herd until passing a second negative test at least 60 days but not more than 90 days after the first test in the case of boars, or open gilts, or after farrowing in the case of bred sows and gilts.
- B) Animals From Out-of-State: All animals from out-of-state accompanied by an approved interstate health certificate, showing compliance with Illinois entry requirements as defined in Section 1 of the Act, may be added to a validated herd, if they qualify as follows:
  - i) Animals originating directly from a validated herd in good standing, without test (owner shall furnish an official health certificate to the Department), or
  - ii) Animals from non-validated herds provided they have passed a negative test within 30 days prior to addition, and are held in isolation from the validated herd until passing a second negative test at least 60 days but not more than 90 days after the first test, in the case of boars and open gilts, or after farrowing in the case of bred sows and gilts.
- C) Additions are not recognized as a part of the validated herd until the required negative retests have been reported to the Illinois Department of Agriculture Division of Animal Industries.
- d) Segregation of Feeding Animals
 

All swine brought on to the farm for feeding purposes shall be segregated from the breeding herd.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 100.30 Breeding Animals Consigned to Slaughter

Before being mixed with swine from any other source, all breeding animals consigned to slaughter or offered for sale for slaughter shall be identified to the herd of origin by an approved identification tag (9 CFR 78.13, 1995) 1999.

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Incorporation by reference does not include any later amendments or editions beyond the date specified. A report of such identification (9 CFR 78.33(d), 1995) ~~1999~~ shall be made on forms provided by the United States Department of Agriculture and shall be submitted to the Department ~~Division~~ within 30 days of application.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Swine Disease Control and Eradication Act

2) Code Citation: 8 Ill. Adm. Code 105

3) Section Numbers: Proposed Action:

105.5 Amendment  
105.10 Amendment  
105.30 Amendment

4) Statutory Authority: Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90] and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95].

5) A Complete Description of the Subjects and Issues Involved: Due to reorganization within the Department, all references to "Division" are changed to "Department". References to the Illinois Revised Statutes have been deleted. Cites to the Swine Brucellosis Uniform Methods and Rules and the Pseudorabies Eradication State-Federal-Industry Program Standards have been updated to reflect the most current printed version of these documents.

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on October 26, 1995 at 1:00 p.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Debbie Wakefield  
Department of Agriculture  
State Fairgrounds  
P.O. Box 19281  
Springfield, Illinois 62719

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In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 20, 1995. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

(2) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Swine producers

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

(3) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

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## NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER I: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS  
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

## PART 105

## SWINE DISEASE CONTROL AND ERADICATION ACT

## Section

|        |  |
|--------|--|
| 105.5  | Definitions  |
| 105.10 | Swine Entering Illinois for Feeding Purposes Only  |
| 105.20 | Quarantine of Imported Feeder Swine  |
| 105.30 | Swine Entering Illinois for Breeding Purposes  |
| 105.40 | Pseudorabies (Aujeszky's Disease) in Swine (Repealed)  |
| 105.41 | General Requirements for Qualified Pseudorabies Negative, Controlled Vaccinated and Feeder Swine Pseudorabies Monitored Herds (Repealed) |
| 105.42 | Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds (Repealed)   |
| 105.44 | Requirements for Establishing and Maintaining Pseudorabies Controlled Vaccinated Swine Herds (Repealed)                                  |
| 105.46 | Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds (Repealed)                                       |
| 105.50 | Official Pseudorabies Test (Repealed)  |
| 105.60 | Pseudorabies Test Requirements for Intrastate Movement (Repealed)  |
| 105.70 | Pseudorabies Testing of Feeder Swine (Repealed)  |
| 105.80 | Feeder Swine (Repealed)  |
| 105.90 | Feral Swine  |

**AUTHORITY:** Implementing and authorized by the Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90], and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95].

**SOURCE:** Rules and Regulations Relating to the Illinois Swine Disease Control and Eradication Act, filed February 24, 1975, effective March 6, 1975; 2 Ill. Reg. 24, p. 31, effective June 15, 1978; 2 Ill. Reg. 46, p. 10, effective November 11, 1978; 3 Ill. Reg. 33, p. 341, effective January 1, 1980; 5 Ill. Reg. 3, p. 745, effective January 2, 1981; 5 Ill. Reg. 45, p. 12100, effective October 27, 1981; codified at 5 Ill. Reg. 10461; amended at 5 Ill. Reg. 13619, effective December 4, 1981; amended at 8 Ill. Reg. 5998, effective April 23, 1984; amended at 9 Ill. Reg. 2236, effective February 15, 1985; amended at 9 Ill. Reg. 18435, effective November 19, 1985; amended at 10 Ill. Reg. 9758, effective May 21, 1986; amended at 11 Ill. Reg. 10187, effective May 15, 1987; amended at 11 Ill. Reg. 10538, effective May 21, 1987; amended at 12 Ill. Reg. 3440, effective January 22, 1988; amended at 13 Ill. Reg. 3715, effective March 13, 1989; amended at 14 Ill. Reg. 1961, effective January 19, 1990; amended at 14 Ill. Reg. 15322, effective September 10, 1990; amended at 16 Ill. Reg. 11799, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5910, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg.



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14010, effective August 16, 1993; amended at 18 Ill. Reg. 1880, effective January 24, 1994; amended at 18 Ill. Reg. 17968, effective January 1, 1995; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 105.5 Definitions**

The definitions for this Part shall be as set forth in the general definitions Section (8 Ill. Adm. Code 20.1). Also, the following definitions shall apply to this Part:

"Act" means the Illinois Swine Disease Control and Eradication Act (~~111-Rev-Stat--1997-ch-87, par--501-et-seq~~) (510 ILCS 100).

"Feral swine" mean swine that have lived any part of their lives free roaming. Swine may loose their designation as feral if they are maintained in captivity for at least 30 days and are tested negative for pseudorabies and brucellosis.

"Tattoo" means a permanent mark in the right ear showing a unique number giving state and herd of origin. The unique number shall be assigned and approved by the Chief Animal Health Official of the state of origin or by the Federal Veterinarian in charge for that state.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 105.10 Swine Entering Illinois for Feeding Purposes Only**

a) Feeder swine, except feral swine, may enter Illinois provided they are identified by an ear tag or tattoo in the right ear showing state of origin and accompanied by a permit from the Department Division and an official health certificate.

b) Official health certificate shall:

- 1) Be issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture;
- 2) Be approved by the Animal Health Official of state of origin;
- 3) Show that the feeder swine are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereof;
- 4) Show that the feeder swine are not from a quarantined herd and/or area;
- 5) List number and description of the feeder swine, tattoos, ear tag series or location of ear tag records when pigs originate from cooperative feeder pig sales; and
- 6) Show that the swine originated from a herd in which a representative sample of the breeding herd has been tested and found negative for pseudorabies (8 Ill. Adm. Code 115.80).

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**c) Permits:**

- 1) Permits to import feeder swine shall only be issued to:
  - A) An Illinois licensed feeder swine dealer; and
  - B) A person importing pigs to feed on his own premises and not for resale other than to slaughter.
- 2) Applicant for permit shall furnish the following information to the Department Division:
  - A) Name and address of Illinois destination.
  - B) Name and address of consignor.
  - C) Number of swine in shipment.
- 3) Grounds for refusal to issue a permit are:
  - A) Violation of the Act or any rule of this Part.
  - B) If a person should be licensed under the Illinois Feeder Swine Dealer Licensing Act (~~111-Rev-Stat--1997-ch-1117 par--201-et-seq~~) (225 ILCS 620) and his or her license is not in good standing with the Department.
  - C) Presence of a disease which might endanger the Illinois swine industry.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 105.30 Swine Entering Illinois for Breeding Purposes**

a) Swine for breeding purposes, except feral swine, may enter Illinois provided they are accompanied by a permit from the Department and an official health certificate.

b) Official health certificate shall:

- 1) Be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture;
- 2) Be approved by the Animal Health Official of the state of origin;
- 3) Identify each animal by registration number, ear tag, tattoo, or ear notch approved by the respective breed registry;
- 4) Show the swine are free from visible evidence of contagious, infectious, or communicable diseases;
- 5) Show that the swine are not from a quarantined herd and/or area;
- 6) Show any swine more than 4 months of age to be negative to an official test for brucellosis, conducted by an approved laboratory within 30 days prior to entry, OR that the swine originate from a validated brucellosis-free herd, with validated herd number and validation date listed on the health certificate, OR that the swine originate from a validated brucellosis-free state ~~area~~ (Swine Brucellosis Bradiation Uniform Methods and Rules (February 1995 ~~May-67-1992-as-amended-February-27-1993~~); as approved by the United States Animal Health Association, P.O. Box R227, Suite 114, 1510 Forest Avenue, Richmond, Virginia 23291).

Incorporation by reference does not include any amendment.

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editions beyond the date specified; and

7) Show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry OR that the swine originated from a qualified pseudorabies negative herd, with the qualified herd number and qualification date listed on the health certificate, OR that the swine originated from a country that meets the requirements for Stage V or from a state that has been classified as Stage IV or State V under the Pseudorabies Eradication State-Federal-Industry Program Standards (January 1, 1995 1997) as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23288). If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state. Incorporation by reference does not include any amendments or editions beyond the date specified.

## c) Permits:

- 1) Permits to import breeding swine shall be issued by telephoning or writing the Department.
- 2) Applicant for permit shall furnish the following information to the Department:  
Name and mailing address of Illinois destination;  
Name and address of consignor; and  
Number of swine in shipment.

## 3) Grounds for refusal to issue a permit are:

- A) Violation of the Act or any rule of this Part; and
- B) Presence of a disease which might endanger the Illinois swine industry.

d) Imported breeding animals shall be kept isolated until a percentage of the imported breeding swine are retested and negative to an official test for pseudorabies conducted not less than 21 days nor more than 90 days after entering Illinois. If the number of imported breeding animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 36 imported breeding animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested. Swine originating from a country that meets the requirements for Stage V or a state that has been classified as Stage IV or Stage V under the pseudorabies Eradication State-Federal-Industry Program Standards are exempt from the isolation and retest provisions. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Public Infrastructure Loan and Grant Programs
- 2) Code Citation: 14 Ill. Adm. Code 610
- 3) Section Numbers:  
610.300 Amendment  
610.400 Amendment  
610.500 Amendment  
610.900 Amendment
- 4) Statutory Authority: Implementing and authorized by the Public Infrastructure Grant and Loan Program Act [30 ILCS 750/Art. 8] (see Public Act 89-262).
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 89-262, the Affordable Financing of Public Infrastructure Program, was amended to increase the maximum allowable term for loans from 3 to 10 years and to delete the requirement that a capital improvements plan be prepared.
- 6) Will these proposed amendments replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after this edition of the *Illinois Register* to the following:  
  
Ms. Brenda Lee Yager, Deputy Director  
Bureau of Community Development  
Department of Commerce and Community Affairs  
520 East Adams Street, 5th Floor  
Springfield, Illinois 62701  
Telephone Number: (217) 785-6174  
T.D.D. Number: (217) 785-6055

12) Initial Regulatory Flexibility Analysis:

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

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- A) Types of small businesses and small municipalities affected: These amendments will affect small municipalities by making it easier to access loan funds.
- B) Reporting, bookkeeping or other procedures required for compliance: N/A
- C) Types of professional skills necessary for compliance: Applicants would already possess the necessary skills for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments begins on the next page:

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TITLE 14: COMMERCE  
SUBTITLE C: ECONOMIC DEVELOPMENT  
CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 610  
PUBLIC INFRASTRUCTURE LOAN AND GRANT PROGRAMS

SUBPART A: BUSINESS DEVELOPMENT PUBLIC INFRASTRUCTURE  
LOAN AND GRANT PROGRAM

| Section | Program Purpose             |
|---------|-----------------------------|
| 610.10  | Application Cycle           |
| 610.20  | Application Documentation   |
| 610.25  | Evaluation Process          |
| 610.30  | Selection for Funding       |
| 610.40  | Funding Limitations         |
| 610.50  | Administrative Requirements |
| 610.60  |                             |

SUBPART B: AFFORDABLE FINANCING OF PUBLIC INFRASTRUCTURE  
LOAN AND GRANT PROGRAM

| Section | Program Purpose                                     |
|---------|---|
| 610.100 | Definitions   |
| 610.200 | Cooperative Agreements with State Intermediaries    |
| 610.300 | Direct Grants and Loans                             |
| 610.400 | Application Cycle and Criteria for Grants and Loans |
| 610.500 | Evaluation Process                                  |
| 610.600 | Selection for Funding for Direct Grants and Loans   |
| 610.700 | Funding Limitations                                 |
| 610.800 | Administrative Requirements                         |
| 610.900 |   |

AUTHORITY: Implementing and authorized by the Public Infrastructure Loan and Grant Program Act [30 ILCS 750/Art. 8] (see Public Act 89-262).

SOURCE: Emergency rule adopted at 9 Ill. Reg. 14362, effective September 5, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 3259, effective January 28, 1986; amended at 10 Ill. Reg. 19395, effective October 31, 1986; amended at 14 Ill. Reg. 19164, effective November 26, 1990; emergency amendment at 17 Ill. Reg. 19676, effective October 25, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 8398, effective May 23, 1994; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: AFFORDABLE FINANCING OF PUBLIC INFRASTRUCTURE LOAN AND GRANT  
PROGRAM



## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF PROPOSED AMENDMENTS

**Section 610.300 Cooperative Agreements with State Intermediaries**

a) The Department is authorized to enter into cooperative agreements with other State government public infrastructure financing entities for the purpose of reliance upon their application, credit review, security, and loan closing procedures for individual small project loans. [30 ILCS 750/8-10(b)] Small Project Affordable Financing of Public Infrastructure loans may be provided under the following conditions:

- 1) As the sole financing source when the Department has determined that no other affordable financing source is available for projects that are necessary to local community health, safety and economic development; or
- 2) As partial project financing in satisfaction of other financing source match requirements, to finance feasibility study and other project development costs necessary to accessing other financing, and to otherwise service financing gaps necessary to project feasibility. [30 ILCS 750/8-10(b)]
- b) The State governmental public infrastructure financing intermediaries with which the Department may enter into interagency agreements are the State executive agencies including the Illinois Environmental Protection Agency and the Illinois Department of Public Health and any body politic created under State statute including the Illinois Rural Bond Bank and the Illinois Development Finance Authority.

c) The governmental public infrastructure financing intermediaries may use the funds provided by the Department to provide small project loans which may not exceed \$100,000 in principal amount. The repayment period for small project loans shall not exceed 10 ½ years. The small project loans may be provided to local governments, local public entities, medical facilities and public health clinics for the purpose of making affordable the financing of "Public Infrastructure" as defined by 30 ILCS 750/8-2.

d) The cooperative agreements between the Department and the intermediaries shall contain a section that specifies the eligible uses, qualified applicants and responsibilities in implementing the infrastructure assistance funds by each intermediary. The cooperative agreements between the Department and the intermediaries may be modified or supplemented by written agreement of both parties. The agreements may be terminated by either party with 30 days written notice.

e) Repayments of principal and interest on loans made by the intermediaries from the infrastructure assistance funds provided by the Department to qualified applicants and any funds collected due to default or failure to comply with the terms or conditions of a loan made under this program and any excess loss reserve funds (any funds not utilized by the trustee for payment of realized losses, fees and other costs in administering the loss reserve trust fund) shall be paid into the Public Infrastructure Construction Loan Revolving Fund.

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

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f) If applicable, the intermediaries may charge qualified loan applicants reasonable and customary fees.

g) The intermediaries shall develop a set of operating procedures and documents which will be provided to the Department before funds are to be made available to the intermediaries. The operating procedures, at a minimum, shall contain the following:

- 1) Certification by the intermediary that the proposed project meets the requirements of the Affordable Financing of Public Infrastructure Act.
- 2) Documentation of sufficiency of tax or revenue source to service debt. A financial feasibility report from an independent accountant or analyst should be provided.
- 3) Procedure for disbursement of funds to the grantees.
- n) The documents, at a minimum, shall contain the following:
  - 1) A preliminary and/or final application, including necessary financial information.
  - 2) Applicable closing documents, i.e., loan agreements, debt authorization ordinance and security agreement, including intercept agreement as appropriate.
  - 1) The intermediaries receiving funds from the Department shall submit quarterly progress reports to the Department in the manner prescribed by the Department.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 610.400 Direct Grants and Loans**

a) The Department is authorized to provide small project affordable financing of public infrastructure grants and loans to local governments, local public entities, local medical facilities, and public health clinics of up to 25% of the project costs where the Department has determined that affordable financing is available for the balance of the project cost, but not for the amount to be subject to the small project affordable financing of public infrastructure grant or loan. No small project grant or loan shall exceed \$100,000. [30 ILCS 750/8-10(d)]

b) The Department is authorized to make small project loans which may not exceed \$100,000 in principal. The repayment period for small project loans shall not exceed 10 ½ years.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 610.500 Application Cycle and Criteria for Grants and Loans**

- a) Application Availability
- 1) Applications for direct grant and loan assistance from the

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Department will be openly available if sufficient monies are allocated for the program. Upon request, the Department will supply potential applicants with an application package if sufficient monies are allocated for the program.

- 2) Qualified applicants may apply for grant and loan assistance under this program. Such applicants must submit an application on forms provided by the Department. A standard application form will be used statewide.

- 3) Program Application -- Applications for grant and loan assistance from the Department must address the following items:

- 1) Written certification by the applicant that an essential need exists for the public infrastructure financing in order to secure a health, safety or economic development project within the community.

- 2) The applicant's financing capability and its ability to pay for, or secure the payment of, part or all of the proposed public infrastructure improvements, and the local government's tax effort, as shown by local tax rates relative to other local governments of the same type in the State. However, if the applicant is a not-for-profit medical facility or public health clinic, the applicant need not address the local government's tax effort.

- 3) Local financing mechanisms available to help pay for the costs of the public infrastructure project, including, but not limited to, local revenue bonds, special service area tax proceeds, local user charges, or applicable federal loans or grants.

- 4) The proposed public infrastructure improvements described in detail which shows their relationship to existing public property and capital improvement plans, as well as the pending health, safety or economic development project.

- 5) Certification that the project is a health, safety or economic development project.

- 6) Certification that the community has a multi-year capital improvement program, updated annually, that includes listings of specific capital projects and specifies all sources of funds for each project, and that is based on economic analysis of the costs and benefits of each project and an analysis of the implications of each project for operating, maintenance and repair costs, and shows each year what past projects have been completed, which are pending, and which have been dropped from the capital plan. 1985-1994-1995-1996-1997-1998-1999-2000-2001-2002-2003-2004-2005-2006-2007-2008-2009-2010-2011-2012-2013-2014-2015-2016-2017-2018-2019-2020-2021-2022-2023-2024-2025-2026-2027-2028-2029-2030-2031-2032-2033-2034-2035-2036-2037-2038-2039-2040-2041-2042-2043-2044-2045-2046-2047-2048-2049-2050-2051-2052-2053-2054-2055-2056-2057-2058-2059-2060-2061-2062-2063-2064-2065-2066-2067-2068-2069-2070-2071-2072-2073-2074-2075-2076-2077-2078-2079-2080-2081-2082-2083-2084-2085-2086-2087-2088-2089-2090-2091-2092-2093-2094-2095-2096-2097-2098-2099-2100-2101-2102-2103-2104-2105-2106-2107-2108-2109-2110-2111-2112-2113-2114-2115-2116-2117-2118-2119-2120-2121-2122-2123-2124-2125-2126-2127-2128-2129-2130-2131-2132-2133-2134-2135-2136-2137-2138-2139-2140-2141-2142-2143-2144-2145-2146-2147-2148-2149-2150-2151-2152-2153-2154-2155-2156-2157-2158-2159-2160-2161-2162-2163-2164-2165-2166-2167-2168-2169-2170-2171-2172-2173-2174-2175-2176-2177-2178-2179-2180-2181-2182-2183-2184-2185-2186-2187-2188-2189-2190-2191-2192-2193-2194-2195-2196-2197-2198-2199-2200-2201-2202-2203-2204-2205-2206-2207-2208-2209-2210-2211-2212-2213-2214-2215-2216-2217-2218-2219-2220-2221-2222-2223-2224-2225-2226-2227-2228-2229-2230-2231-2232-2233-2234-2235-2236-2237-2238-2239-2240-2241-2242-2243-2244-2245-2246-2247-2248-2249-2250-2251-2252-2253-2254-2255-2256-2257-2258-2259-2260-2261-2262-2263-2264-2265-2266-2267-2268-2269-2270-2271-2272-2273-2274-2275-2276-2277-2278-2279-2280-2281-2282-2283-2284-2285-2286-2287-2288-2289-2290-2291-2292-2293-2294-2295-2296-2297-2298-2299-2300-2301-2302-2303-2304-2305-2306-2307-2308-2309-2310-2311-2312-2313-2314-2315-2316-2317-2318-2319-2320-2321-2322-2323-2324-2325-2326-2327-2328-2329-2330-2331-2332-2333-2334-2335-2336-2337-2338-2339-2340-2341-2342-2343-2344-2345-2346-2347-2348-2349-2350-2351-2352-2353-2354-2355-2356-2357-2358-2359-2360-2361-2362-2363-2364-2365-2366-2367-2368-2369-2370-2371-2372-2373-2374-2375-2376-2377-2378-2379-2380-2381-2382-2383-2384-2385-2386-2387-2388-2389-2390-2391-2392-2393-2394-2395-2396-2397-2398-2399-2400-2401-2402-2403-2404-2405-2406-2407-2408-2409-2410-2411-2412-2413-2414-2415-2416-2417-2418-2419-2420-2421-2422-2423-2424-2425-2426-2427-2428-2429-2430-2431-2432-2433-2434-2435-2436-2437-2438-2439-2440-2441-2442-2443-2444-2445-2446-2447-2448-2449-2450-2451-2452-2453-2454-2455-2456-2457-2458-2459-2460-2461-2462-2463-2464-2465-2466-2467-2468-2469-2470-2471-2472-2473-2474-2475-2476-2477-2478-2479-2480-2481-2482-2483-2484-2485-2486-2487-2488-2489-2490-2491-2492-2493-2494-2495-2496-2497-2498-2499-2500-2501-2502-2503-2504-2505-2506-2507-2508-2509-2510-2511-2512-2513-2514-2515-2516-2517-2518-2519-2520-2521-2522-2523-2524-2525-2526-2527-2528-2529-2530-2531-2532-2533-2534-2535-2536-2537-2538-2539-2540-2541-2542-2543-2544-2545-2546-2547-2548-2549-2550-2551-2552-2553-2554-2555-2556-2557-2558-2559-2560-2561-2562-2563-2564-2565-2566-2567-2568-2569-2570-2571-2572-2573-2574-2575-2576-2577-2578-2579-2580-2581-2582-2583-2584-2585-2586-2587-2588-2589-2590-2591-2592-2593-2594-2595-2596-2597-2598-2599-2600-2601-2602-2603-2604-2605-2606-2607-2608-2609-2610-2611-2612-2613-2614-2615-2616-2617-2618-2619-2620-2621-2622-2623-2624-2625-2626-2627-2628-2629-2630-2631-2632-2633-2634-2635-2636-2637-2638-2639-2640-2641-2642-2643-2644-2645-2646-2647-2648-2649-2650-2651-2652-2653-2654-2655-2656-2657-2658-2659-2660-2661-2662-2663-2664-2665-2666-2667-2668-2669-2670-2671-2672-2673-2674-2675-2676-2677-2678-2679-2680-2681-2682-2683-2684-2685-2686-2687-2688-2689-2690-2691-2692-2693-2694-2695-2696-2697-2698-2699-2700-2701-2702-2703-2704-2705-2706-2707-2708-2709-2710-2711-2712-2713-2714-2715-2716-2717-2718-2719-2720-2721-2722-2723-2724-2725-2726-2727-2728-2729-2730-2731-2732-2733-2734-2735-2736-2737-2738-2739-2740-2741-2742-2743-2744-2745-2746-2747-2748-2749-2750-2751-2752-2753-2754-2755-2756-2757-2758-2759-2760-2761-2762-2763-2764-2765-2766-2767-2768-2769-2770-2771-2772-2773-2774-2775-2776-2777-2778-2779-2780-2781-2782-2783-2784-2785-2786-2787-2788-2789-2790-2791-2792-2793-2794-2795-2796-2797-2798-2799-2800-2801-2802-2803-2804-2805-2806-2807-2808-2809-2810-2811-2812-2813-2814-2815-2816-2817-2818-2819-2820-2821-2822-2823-2824-2825-2826-2827-2828-2829-2830-2831-2832-2833-2834-2835-2836-2837-2838-2839-2840-2841-2842-2843-2844-2845-2846-2847-2848-2849-2850-2851-2852-2853-2854-2855-2856-2857-2858-2859-2860-2861-2862-2863-2864-2865-2866-2867-2868-2869-2870-2871-2872-2873-2874-2875-2876-2877-2878-2879-2880-2881-2882-2883-2884-2885-2886-2887-2888-2889-2890-2891-2892-2893-2894-2895-2896-2897-2898-2899-2900-2901-2902-2903-2904-2905-2906-2907-2908-2909-2910-2911-2912-2913-2914-2915-2916-2917-2918-2919-2920-2921-2922-2923-2924-2925-2926-2927-2928-2929-2930-2931-2932-2933-2934-2935-2936-2937-2938-2939-2940-2941-2942-2943-2944-2945-2946-2947-2948-2949-2950-2951-2952-2953-2954-2955-2956-2957-2958-2959-2960-2961-2962-2963-2964-2965-2966-2967-2968-2969-2970-2971-2972-2973-2974-2975-2976-2977-2978-2979-2980-2981-2982-2983-2984-2985-2986-2987-2988-2989-2990-2991-2992-2993-2994-2995-2996-2997-2998-2999-3000-3001-3002-3003-3004-3005-3006-3007-3008-3009-3010-3011-3012-3013-3014-3015-3016-3017-3018-3019-3020-3021-3022-3023-3024-3025-3026-3027-3028-3029-3030-3031-3032-3033-3034-3035-3036-3037-3038-3039-3040-3041-3042-3043-3044-3045-3046-3047-3048-3049-3050-3051-3052-3053-3054-3055-3056-3057-3058-3059-3060-3061-3062-3063-3064-3065-3066-3067-3068-3069-3070-3071-3072-3073-3074-3075-3076-3077-3078-3079-3080-3081-3082-3083-3084-3085-3086-3087-3088-3089-3090-3091-3092-3093-3094-3095-3096-3097-3098-3099-3100-3101-3102-3103-3104-3105-3106-3107-3108-3109-3110-3111-3112-3113-3114-3115-3116-3117-3118-3119-3120-3121-3122-3123-3124-3125-3126-3127-3128-3129-3130-3131-3132-3133-3134-3135-3136-3137-3138-3139-3140-3141-3142-3143-3144-3145-3146-3147-3148-3149-3150-3151-3152-3153-3154-3155-3156-3157-3158-3159-3160-3161-3162-3163-3164-3165-3166-3167-3168-3169-3170-3171-3172-3173-3174-3175-3176-3177-3178-3179-3180-3181-3182-3183-3184-3185-3186-3187-3188-3189-3190-3191-3192-3193-3194-3195-3196-3197-3198-3199-3200-3201-3202-3203-3204-3205-3206-3207-3208-3209-3210-3211-3212-3213-3214-3215-3216-3217-3218-3219-3220-3221-3222-3223-3224-3225-3226-3227-3228-3229-3230-3231-3232-3233-3234-3235-3236-3237-3238-3239-3240-3241-3242-3243-3244-3245-3246-3247-3248-3249-3250-3251-3252-3253-3254-3255-3256-3257-3258-3259-3260-3261-3262-3263-3264-3265-3266-3267-3268-3269-3270-3271-3272-3273-3274-3275-3276-3277-3278-3279-3280-3281-3282-3283-3284-3285-3286-3287-3288-3289-3290-3291-3292-3293-3294-3295-3296-3297-3298-3299-3300-3301-3302-3303-3304-3305-3306-3307-3308-3309-3310-3311-3312-3313-3314-3315-3316-3317-3318-3319-3320-3321-3322-3323-3324-3325-3326-3327-3328-3329-3330-3331-3332-3333-3334-3335-3336-3337-3338-3339-3340-3341-3342-3343-3344-3345-3346-3347-3348-3349-3350-3351-3352-3353-3354-3355-3356-3357-3358-3359-3360-3361-3362-3363-3364-3365-3366-3367-3368-3369-3370-3371-3372-3373-3374-3375-3376-3377-3378-3379-3380-3381-3382-3383-3384-3385-3386-3387-3388-3389-3390-3391-3392-3393-3394-3395-3396-3397-3398-3399-3400-3401-3402-3403-3404-3405-3406-3407-3408-3409-3410-3411-3412-3413-3414-3415-3416-3417-3418-3419-3420-3421-3422-3423-3424-3425-3426-3427-3428-3429-3430-3431-3432-3433-3434-3435-3436-3437-3438-3439-3440-3441-3442-3443-3444-3445-3446-3447-3448-3449-3450-3451-3452-3453-3454-3455-3456-3457-3458-3459-3460-3461-3462-3463-3464-3465-3466-3467-3468-3469-3470-3471-3472-3473-3474-3475-3476-3477-3478-3479-3480-3481-3482-3483-3484-3485-3486-3487-3488-3489-3490-3491-3492-3493-3494-3495-3496-3497-3498-3499-3500-3501-3502-3503-3504-3505-3506-3507-3508-3509-3510-3511-3512-3513-3514-3515-3516-3517-3518-3519-3520-3521-3522-3523-3524-3525-3526-3527-3528-3529-3530-3531-3532-3533-3534-3535-3536-3537-3538-3539-3540-3541-3542-3543-3544-3545-3546-3547-3548-3549-3550-3551-3552-3553-3554-3555-3556-3557-3558-3559-3560-3561-3562-3563-3564-3565-3566-3567-3568-3569-3570-3571-3572-3573-3574-3575-3576-3577-3578-3579-3580-3581-3582-3583-3584-3585-3586-3587-3588-3589-3590-3591-3592-3593-3594-3595-3596-3597-3598-3599-3600-3601-3602-3603-3604-3605-3606-3607-3608-3609-3610-3611-3612-3613-3614-3615-3616-3617-3618-3619-3620-3621-3622-3623-3624-3625-3626-3627-3628-3629-3630-3631-3632-3633-3634-3635-3636-3637-3638-3639-3640-3641-3642-3643-3644-3645-3646-3647-3648-3649-3650-3651-3652-3653-3654-3655-3656-3657-3658-3659-3660-3661-3662-3663-3664-3665-3666-3667-3668-3669-3670-3671-3672-3673-3674-3675-3676-3677-3678-3679-3680-3681-3682-3683-3684-3685-3686-3687-3688-3689-3690-3691-3692-3693-3694-3695-3696-3697-3698-3699-3700-3701-3702-3703-3704-3705-3706-3707-3708-3709-3710-3711-3712-3713-3714-3715-3716-3717-3718-3719-3720-3721-3722-3723-3724-3725-3726-3727-3728-3729-3730-3731-3732-3733-3734-3735-3736-3737-3738-3739-3740-3741-3742-3743-3744-3745-3746-3747-3748-3749-3750-3751-3752-3753-3754-3755-3756-3757-3758-3759-3760-3761-3762-3763-3764-3765-3766-3767-3768-3769-3770-3771-3772-3773-3774-3775-3776-3777-3778-3779-3780-3781-3782-3783-3784-3785-3786-3787-3788-3789-3790-3791-3792-3793-3794-3795-3796-3797-3798-3799-3800-3801-3802-3803-3804-3805-3806-3807-3808-3809-3810-3811-3812-3813-3814-3815-3816-3817-3818-3819-3820-3821-3822-3823-3824-3825-3826-3827-3828-3829-3830-3831-3832-3833-3834-3835-3836-3837-3838-3839-3840-3841-3842-3843-3844-3845-3846-3847-3848-3849-3850-3851-3852-3853-3854-3855-3856-3857-3858-3859-3860-3861-3862-3863-3864-3865-3866-3867-3868-3869-3870-3871-3872-3873-3874-3875-3876-3877-3878-3879-3880-3881-3882-3883-3884-3885-3886-3887-3888-3889-3890-3891-3892-3893-3894-3895-3896-3897-3898-3899-3900-3901-3902-3903-3904-3905-3906-3907-3908-3909-3910-3911-3912-3913-3914-3915-3916-3917-3918-3919-3920-3921-3922-3923-3924-3925-3926-3927-3928-3929-3930-3931-3932-3933-3934-3935-3936-3937-3938-3939-3940-3941-3942-3943-3944-3945-3946-3947-3948-3949-3950-3951-3952-3953-3954-3955-3956-3957-3958-3959-3960-3961-3962-3963-3964-3965-3966-3967-3968-3969-3970-3971-3972-3973-3974-3975-3976-3977-3978-3979-3980-3981-3982-3983-3984-3985-3986-3987-3988-3989-3990-3991-3992-3993-3994-3995-3996-3997-3998-3999-4000-4001-4002-4003-4004-4005-4006-4007-4008-4009-4010-4011-4012-4013-4014-4015-4016-4017-4018-4019-4020-4021-4022-4023-4024-4025-4026-4027-4028-4029-4030-4031-4032-4033-4034-4035-4036-4037-4038-4039-4040-4041-4042-4043-4044-4045-4046-4047-4048-4049-4050-4051-4052-4053-4054-4055-4056-4057-4058-4059-4060-4061-4062-4063-4064-4065-4066-4067-4068-4069-4070-4071-4072-4073-4074-4075-4076-4077-4078-4079-4080-4081-4082-4083-4084-4085-4086-4087-4088-4089-4090-4091-4092-4093-4094-4095-4096-4097-4098-4099-4100-4101-4102-4103-4104-4105-4106-4107-4108-4109-4110-4111-4112-4113-4114-4115-4116-4117-4118-4119-4120-4121-4122-4123-4124-4125-4126-4127-4128-4129-4130-4131-4132-4133-4134-4135-4136-4137-4138-4139-4140-4141-4142-4143-4144-4145-4146-4147-4148-4149-4150-4151-4152-4153-4154-4155-4156-4157-4158-4159-4160-4161-4162-4163-4164-4165-4166-4167-4168-4169-4170-4171-4172-4173-4174-4175-4176-4177-4178-4179-4180-4181-4182-4183-4184-4185-4186-4187-4188-4189-4190-4191-4192-4193-4194-4195-4196-4197-4198-4199-4200-4201-4202-4203-4204-4205-4206-4207-4208-4209-4210-4211-4212-4213-4214-4215-4216-4217-4218-4219-4220-4221-4222-4223-4224-4225-4226-4227-4228-4229-4230-4231-4232-4233-4234-4235-4236-4237-4238-4239-4240-4241-4242-4243-4244-4245-4246-4247-4248-4249-4250-4251-4252-4253-4254-4255-4256-4257-4258-4259-4260-4

## COMPTROLLER MERIT COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Merit Commission Rules

2) Code Citation: 80 Ill. Adm. Code 100

3) Section Numbers: Proposed Action:

100.90 Amendment

4) Statutory Authority: Implementing and authorized by the Comptroller Merit Employment Code [15 ILCS 410].

5) A Complete Description of the Subjects and Issues Involved: This rule amendment would correct an inconsistency in current rules regarding the time period in which an allocation appeal must be filed after receipt of the Director's decision on reconsideration. The amendment also eliminates the need to file a notice of appeal as the appeal itself is required to be filed within the 15 day period.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested persons may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and addressed to:

Marylou Lowder Kent, Chair  
Comptroller Merit Commission  
325 West Adams Street  
Springfield, IL 62704  
(217) 785-1127.

The Commission will consider all written comments it receives within 30 days after the publication of this notice.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

## COMPTROLLER MERIT COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because:

The full text of the Proposed Amendment begins on the next page:



COMPTROLLER MERIT COMMISSION  
NOTICE OF PROPOSED AMENDMENTS  
TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS  
CHAPTER III: STATE COMPTROLLER

PART 100  
MERIT COMMISSION RULES

- Section 100.5 Definitions
  - 100.10 Meetings of the Commission
  - 100.20 Classification Plan
  - 100.30 Personnel Rules
  - 100.40 Jurisdiction B Exemptions
  - 100.50 Orders of Compliance
  - 100.55 Collective Bargaining Agreements
  - 100.60 Appeals, Filing Requirements and Hearings
  - 100.70 Disciplinary Hearings
  - 100.80 Geographical Transfers
  - 100.90 Allocation Appeals
  - 100.100 Merit Employment Code and Personnel Rule Violations
  - 100.110 Qualification and Authority of the Hearings Officer
  - 100.115 Ex Parte Consultations
  - 100.117 Response to Proposed Decision
  - 100.120 Record of Proceedings
  - 100.130 Authority of Commission Over Hearings Officer
  - 100.140 Administrative Review
  - 100.150 Adoption, Amendment and Recision of Rules
- AUTHORITY: Implementing and authorized by the Comptroller Merit Employment Code [15 ILCS 410].
- SOURCE: Emergency rule adopted at 3 Ill. Reg. 17, p. 66, effective April 18, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 28, p. 69, effective July 5, 1979; amended at 7 Ill. Reg. 5416, effective April 11, 1983; codified at 8 Ill. Reg. 5645; amended at 19 Ill. Reg. 206, effective January 3, 1995; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 100.90 Allocation Appeals

- a) If an employee wants to appeal the allocation of a position to a class, the employee must, within 15 days after the day of receipt of the Director's decision on reconsideration, file the appeal at the Office of the Commission and serve a copy of the appeal upon the Director. The appeal shall include the name of the employee, the employee's department and a description of the factual basis for the classification dispute. An employee must, within 14 days after the day of receipt of the Director's decision on reconsideration, serve notice upon the Commission of an employee's intent to appeal the

COMPTROLLER MERIT COMMISSION  
NOTICE OF PROPOSED AMENDMENTS

- reconsideration decision of the Director. A copy of the notice of intent must be served upon the Director. The notice shall state the name of the employee, the employee's department and a description of the classification dispute.
  - b) Upon the receipt of the a notice of intent to appeal, the Director shall file with the Commission, within 20 days, a submission setting forth in full a clear and brief recitation of all relevant facts, arguments and documentary evidence submitted in exhibit form to substantiate the reconsidered decision. If the submission, as a matter of law, does not set forth facts and reasons from which it could be reasonably concluded that the employee is properly classified, summary judgment may be granted. A copy of the submission shall be served upon the employee.
  - c) Within 20 days after the day of receipt of the Director's submission, the employee must file with the Commission an answer setting forth all relevant facts, arguments and documentary evidence in exhibit form. A copy of the answer must be served upon the Director. The employee shall point out with particularity disagreement with the submission of the Director.
  - d) If an employee or the Director desires an informal oral conference with the opposing party, a request for the conference shall be filed not later than 5 days after the employee's answer is due pursuant to subsection (c) above. An informal oral conference will be convened if requested by either of the parties and due notice will be given the parties of the time and date of the conference which will be conducted in the presence of either the Chair or a Hearings Officer.
  - e) Parties may be heard either in person, by counsel or by other representatives as they may elect.
  - f) Upon written request of either side, the Commission may issue subpoenas to compel the production of documents or persons having relevance to the issues of the dispute.
  - g) The Commission may make its decision on the pleadings, or it may order formal hearings held on disputed issues of fact or law at the request of either party or upon its own motion.
  - h) Upon failure to comply with these rules, the Commission may make its decision on the facts before it, if sufficient facts exist, or it may default the noncomplying party. Such action shall be a decision on the merits of the appeal. An adverse inference may be drawn against any party failing to comply with these rules.
  - i) Unless inconsistent with this Section, the procedures governing Section 100.70 shall apply to formal allocation hearings.
- (Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Procedures for Issuing Loans from the Water Pollution Control Revolving Fund

- 2) Code Citation: 35 Ill. Adm. Code 365

- 3) Section Numbers:

365.130 Amendment  
 365.230 Amendment  
 365.240 Amendment  
 365.410 Amendment  
 365.420 Amendment  
 365.430 Amendment  
 365.440 Amendment  
 365.450 Amendment  
 365.460 Amendment  
 365.520 Amendment  
 365.530 Amendment  
 365.550 Amendment  
 365.620 Amendment  
 365.630 Amendment  
 365.660 Amendment  
 365.720 Amendment  
 365.730 Amendment  
 365.740 Repeal  
 365.750 Renumber  
 365.760 Renumber  
 365.770 Renumber  
 365.820 Amendment  
 365.920 Amendment  
 365.940 Amendment  
 365.1010 Amendment  
 365.1110 Amendment  
 365.1120 Amendment

- 4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.8 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.8] (see P.A. 89-27, effective January 1, 1996).

- 5) Complete Description of the Subjects and Issues Involved: This rulemaking is in response to the legislative creation of two programs known as the Water Pollution Control Program and the Loan Support Program within the Water Pollution Control Revolving Fund. The Water Pollution Control Loan Program provides financial assistance in the form of below market rate loans to eligible units of local government to construct wastewater treatment works. The Loan Support Program uses a portion of the loan repayments to finance Agency costs of administering the Water Pollution Control Revolving Fund and activities under Title III of the Environmental

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Protection Act, including administration of the State construction grant program. Furthermore, the Loan Support Program will finance the development of a low interest loan program for public water supply projects. Other amendments simplify the procedures.

- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a mandate under Section 3 of the State Mandates Act [30 ILCS 805/3]. These proposed amendments are consistent with the policy objectives set out in Title IV-A of the Environmental Protection Act [415 ILCS 5/Title IV-A].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Ron Drainer, Manager  
 Grants Administration  
 Division of Water Pollution Control  
 Bureau of Water  
 Illinois Environmental Protection Agency  
 2200 Churchill Road  
 Springfield, IL 62794-9276  
 (217) 782-2027

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The loan program is limited to units of local government. Public Act 89-27 specifies that units of local government shall not have any increases to their overall costs; the amendments not related to P.A. 89-27 simplify procedure.

- B) Reporting, bookkeeping or other procedures required for compliance: The amendments to this part will not require additional reporting, bookkeeping, or other procedures not already required by previously established State and federal regulations.

- C) Types of professional skills necessary for compliance: No additional professional skills are required by these amendments.

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13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

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## NOTICE OF PROPOSED AMENDMENTS

## TITLE 35: ENVIRONMENTAL PROTECTION

## SUBTITLE C: WATER POLLUTION

## CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 365

PROCEDURES FOR ISSUING LOANS FROM THE WATER  
POLLUTION CONTROL REVOLVING FUND

## SUBPART A: INTRODUCTION

| Section | Purpose                     |
|---------|-----------------------------|
| 365.110 | Administration              |
| 365.120 | Definitions                 |
| 365.130 | Incorporations by Reference |
| 365.140 |                             |

## SUBPART B: FEDERAL REQUIREMENTS FOR THE FUND

| Section |  |
|---------|--|
| 365.210 | Involvement of USEPA in the Operation of the Fund          |
| 365.220 | Uses of the Fund   |
| 365.230 | Agency Responsibilities under Title VI of the CWA          |
| 365.240 | Requirements for Loan Recipients under Title VI of the CWA |

SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO COMPLY WITH  
LOAN PROCEDURES

| Section |                                    |
|---------|------------------------------------|
| 365.310 | Noncompliance with Loan Procedures |
| 365.320 | Stop-Work Order                    |
| 365.330 | Termination                        |
| 365.340 | Waiver of Procedures               |

## SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

| Section |   |
|---------|---|
| 365.410 | Project Priority Determination  |
| 365.420 | Pre-Applications for Financial Assistance and Identification of Projects to be Funded |
| 365.430 | Financial Assistance Application and Approval   |
| 365.440 | Fixed Loan Interest Rates   |
| 365.450 | Restrictions on Refinancing   |
| 365.460 | Limitation on Design Cost   |

## SUBPART E: PLANNING REQUIREMENTS FOR LOAN PROJECTS

| Section |  |
|---------|--|
| 365.510 | Sewer System Evaluation and Rehabilitation |



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365.520 Loan Applicant's Responsibilities During Facilities Planning  
365.530 State Environmental Review  
365.540 Limitations on Awards for Individual Systems  
365.550 Value Engineering Requirements  
365.560 Areawide Waste Treatment Management Planning

## SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section  
365.610 Loan Requirements for all Subagreements  
365.620 Construction Contracts of Loan Recipient  
365.630 Contracts for Personal and Professional Services-----Consulting  
Engineering-Agreements  
365.640 Compliance with Procurement Requirements for Construction Contracts  
365.650 Disputes  
365.660 Indemnity  
365.670 Covenant Against Contingent Fees

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES,  
COMPLETION AND OPERATION OF PROJECT

Section  
365.710 Construction Initiation  
365.720 Project Changes  
365.730 Construction Engineering  
365.740 Operation and Maintenance of the Project Project-Sign  
365.750 Final Inspection Operation-and-Maintenance-of-the-Project  
365.760 Project Performance Certification Final-Inspection  
365.770 Project Performance Certification (Renumbered)

## SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING, AND RECORDS

Section  
365.810 Access  
365.820 Audit and Records  
365.830 Single Audit Act

SUBPART I: REQUIREMENTS FOR SEWER USE ORDINANCE, USER CHARGES, FINANCIAL  
CAPABILITY, DEDICATED SOURCE OF REVENUE AND FLOODPLAIN INSURANCE

Section  
365.910 Sewer Use Ordinance  
365.920 User Charges  
365.930 Financial Capability  
365.940 Dedicated Source of Revenue  
365.950 Floodplain Insurance

## SUBPART J: REQUIREMENTS APPLICABLE TO DISBURSEMENT OF

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## LOANS TO RECIPIENTS

Section  
365.1010 Determination of Allowable Costs  
365.1020 Use of Loan Funds and Payment of Unallowable Costs  
365.1030 Disbursement of Loan Funds

## SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

Section  
365.1110 Loan Repayment to the Agency  
365.1120 Delinquent Loan Repayments

APPENDIX A Executive Orders  
EXHIBIT A Executive Order 11625  
EXHIBIT B Executive Order 12138  
EXHIBIT C Executive Order 12549

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.8 of the Environmental Protection Act (415 ILCS 5/19.1 through 19.8) (see P.A. 89-27, effective January 1, 1996).

SOURCE: Adopted at 13 Ill. Reg. 7351, effective May 1, 1989; amended at 16 Ill. Reg. 15073, effective September 21, 1992; recodified at 19 Ill. Reg. 11450, effective August 11, 1995; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INTRODUCTION

## Section 365.130 Definitions

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act (Act) (415 ILCS 5) and regulations adopted thereunder under that Act (35 Ill. Adm. Code: Subtitle C) and the Clean Water Act (CWA), as amended (33 U.S.C. 1251 et seq.).
- b) For the purposes of this Part, the following definitions apply:

Addenda -- Documents issued by the loan applicant after advertisement for bids, which modify or interpret the contract documents, drawings, and specifications, by additions, deletions, clarifications or corrections.

Agency -- Illinois Environmental Protection Agency.

Alternative Technology -- Proven wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, productively recycle wastewater constituents or otherwise

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eliminate the discharge of pollutants, or recover energy. Specifically, alternative technology includes land application of effluent and sludge; aquifer recharge; aquaculture; direct reuse (non-potable); horticulture; revegetation of disturbed land; containment ponds; sludge composting and drying prior to land application; self-sustaining incineration; methane recovery; individual and on-site systems; and small diameter pressure and vacuum sewers and small diameter gravity sewers carrying partially or fully treated wastewater.

**Best Practicable Waste Treatment Technology (BPWTT) --** The cost effective technology that is able to treat wastewater, combined sewer overflows and nonexcessive, infiltration and inflow in publicly owned or individual wastewater treatment works.

**Binding Commitment --** A legal obligation between the Agency and a local government unit to provide financial assistance from the Fund to that local government unit, specifying the terms and schedules under which assistance is provided. The loan agreement will be considered a binding commitment.

**Building Cost --** Refers to the cost of erection of construction contract line items. "Building" costs do not include preliminary planning, engineering, architectural, legal, fiscal, administrative or contingency costs.

**Capitalization Grant --** The actual federal funds received by the Agency for deposit into the Fund as a result of the capitalization grant agreement with the USEPA.

**Capitalization Grant Agreement --** The agreement entered into each federal fiscal year between the Agency and the USEPA for the purpose of providing a grant to capitalize the Fund and enable the Agency to provide assistance for construction of wastewater treatment works.

**Change Order --** A written order by the loan recipient to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

**Compliance Projects --** A project which consists of construction, expansion, or upgrading of a wastewater treatment works necessary to meet State and federal requirements as specified in 35 Ill. Adm. Code: Subtitle C, and the CWA respectively.

**Construction --** Any one or more of the following which is undertaken for a public purpose: preliminary planning to

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determine the feasibility of the wastewater treatment works, engineering, architectural, legal, fiscal or economic investigations, or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of wastewater treatment works, or the inspection or supervision of any of the foregoing items.

**Contract Documents --** The contract, including but not limited to advertisement for bids, information for bidders, bid, bid bond, agreement, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications, and addenda.

**Cost-Effectiveness Analysis --** An analysis of the feasible conventional, innovative and alternative wastewater treatment works, processes and techniques capable of meeting the applicable effluent, water quality and public health requirements over the design life of the facility while recognizing environmental and other non-monetary considerations.

**CWA --** The Clean Water Act, as amended (33 U.S.C. 1251 et seq.).

**Dedicated Source of Revenue --** The type of security and the basis of legal authorization which are dedicated by legislative enactment or other appropriate authority along with the applicable revenue source pledged for repayment and deposited into an account restricted to the purpose of loan repayment to the fund, which is sufficient to repay the principal and interest on the loan.

**Design --** All administrative, legal, and engineering tasks, subsequent to facilities plan approval but prior to advertisement for bid proposal, associated with receiving approval of a loan application. This shall include the following: surveys, designs, plans, working drawings, specifications, soil investigations and any other tests or process determinations required to establish design criteria, and development of user charge systems and sewer use ordinances.

**Director --** Director of the Illinois Environmental Protection Agency.

**Emergency Project --** A project resulting from an unanticipated mechanical, structural or electrical failure that directly causes or threatens to cause a wastewater treatment works to cease operation of the State or Federal requirements for wastewater treatment as specified in 35 Ill. Adm. Code: Subtitle C, and the CWA respectively.

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## CWA-

Excessive Infiltration/Inflow -- The amount of infiltration/inflow that is cost-effective to remove by sewer rehabilitation measures as opposed to transporting and treating those flows over a given period of time, usually 20 years.

Fixed Loan Rate -- One-half the Market Interest Rate rounded to the nearest one hundredth of one percent. In the case of compliance projects, the rate is 2.50 percent.

Fund -- The Water Pollution Control Revolving Fund as authorized by P.A. 85-1135, effective September 1, 1988.

Infiltration -- Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connection, or manholes.

Inflow -- Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash water, or drainage.

Initiation of Loan Repayment Period -- The date in a loan agreement or amendment that established the beginning point of the loan repayment period.

Initiation of Operation -- The data specified by the loan agreement on which use of the project began operation for the purposes that it was planned, designed, and constructed.

Innovative -- Those wastewater treatment processes and techniques that are developed methods which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of meeting the national goals of cost reduction, increased energy conservation or recovery, greater recycling and conservation of water resources, reclamation or reuse of effluents and resources, improved efficiency and/or reliability, the beneficial use of sludges or effluent constituents, better management of toxic materials or increased environmental benefits.

Intended Use Plan -- A plan which includes a description of the short and long term goals and objectives of the fund, project

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categories, discharge requirements, terms of financial assistance and the communities to be served.

Interest Rate -- Not less than one-fourth of the Market Interest Rate rounded to the nearest one hundredth of one percent.

Loan Agreement -- The contractual agreement between the Agency and the local government unit which states the terms and conditions governing the loan issued from the Fund.

Loan Applicant -- The local government unit which has applied for a loan from the Fund for construction of a wastewater treatment works.

Loan Commitment Letter -- The letter that is sent by the Agency to the loan applicant which reserves loan funds and identifies the requirements that must be satisfied prior to the execution of the loan agreement.

Loan Procedures -- The Procedures For Issuing Loans From The Fund (this Part).

Loan Recipient -- The local government unit which has been provided a loan for construction of a wastewater treatment works from the Fund.

Loan Support Rate -- Not more than one-fourth of the Market Interest Rate rounded to the nearest one hundredth of one percent.

Local Government UNIT -- A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment works.

Market Interest Rate -- The mean interest rate of the 20 General Obligation Bond Buyer Index, as published weekly by the Bond Buyer newspaper, from July 1 to June 30 of the preceding fiscal year rounded to the nearest one hundredth of a percent. In the case of a compliance project with a 2.50 percent fixed loan rate, the Market Interest Rate is 5.00 percent.

Operating Agreement -- The agreement between the Agency and the USEPA that establishes the policies, procedures and activities for the application and receipt of federal capitalization grant funds for capitalization of the Fund.



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Principal -- All disbursements including **and** interest and loan support accrued on the disbursements that have not been **financed repaid** at the time the repayment schedule period begins.

Project -- The activities or tasks the Agency identifies in the loan agreement for which the loan recipient may expend loan funds.

Project Priority List -- An ordered listing of projects developed in accordance with the priority system, as described in Section 365.401 (Project Priority Determination) which the Agency has determined are eligible to receive financial assistance from the Fund.

Responsible Bid -- Bid that demonstrates the apparent ability to successfully meet all the requirements specified in the contract documents. Information required to demonstrate responsibility may be corrected or submitted after bid opening.

Responsive Bid -- Bid that complies with all meaningful or material aspects of the contract documents. The bid must constitute a definite and unqualified offer to meet the material requirements of the contract documents including any terms that affect price, quality, quantity or time of delivery, or are clearly identified in the contract documents to be complied with at the risk of bid rejection for non-responsiveness. Bid defects resulting in a non-responsive bid may not be corrected after the bid opening.

Subagreement -- A written agreement between the loan recipient and another party and any tier of agreement thereunder to furnish services, supplies, or equipment necessary to complete the project for which a loan was provided, including contracts for personal and professional services and purchase orders.

Title II -- Title II of the federal Clean Water Act (33 U.S.C. 1251 et seq.).

Title III -- Title III of the federal Clean Water Act (33 U.S.C. 1251 et seq.).

Title IV -- Title IV of the federal Clean Water Act (33 U.S.C. 1251 et seq.).

Title VI -- Title VI of the federal Clean Water Act (33 U.S.C. 1251 et seq.).

Treatment Works -- Any devices and systems owned by a local

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government unit and used in the storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature, including intercepting sewers, outfall sewers, sewage collection systems, pumping power and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process.

Useful Life -- The estimated period during which a wastewater treatment works is intended to be operable **will-be-operated**.

USEPA -- The United States Environmental Protection Agency.

User Charge -- A charge levied on the users of a treatment works to produce adequate revenues for the operation, maintenance and replacement of the treatment works.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: FEDERAL REQUIREMENTS FOR THE FUND

## Section 365.230 Agency Responsibilities under Title VI of the CWA

- a) The Fund must be established in accordance with the requirements of Title VI prior to the receipt of the capitalization grant for deposit into the Fund.
- b) The Agency will prepare an Intended Use Plan and negotiate an Operating Agreement with the USEPA which will be the basis for the Capitalization Grant Agreement. These documents establish the procedures, activities, and assurances for operation of the Fund including but not limited to the following:
  - 1) Grant payments will be accepted in accordance with a payment schedule established jointly by the Agency and the USEPA under 601(b) of the CWA and will be deposited into the Fund as drawdowns to the federal letter of credit are approved;
  - 2) A 20 percent State match will be deposited into the Fund according to an agreed upon schedule;
  - 3) A listing and description of projects on the Project Priority List to be provided financial assistance, their discharge requirements under Title III and IV of the CWA, and the terms of financial assistance;
  - 4) Binding commitments for 120 percent of each quarterly federal grant payment must be made by the Agency within one year after the receipt of each payment;
  - 5) Funds as a result of the Capitalization Grants must ~~be~~ **be** used

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to assure maintenance of progress toward compliance with the enforceable deadlines, goals and requirements of the CWA;

6) Wastewater treatment works constructed with funds made directly available from the Capitalization Grant must meet the appropriate Title II requirements;

7) Loan award and disbursement procedures to document loan applicant's compliance with Title VI requirements;

8) Loan repayment period cannot exceed 20 years beyond the earlier of the initiation of operation date or the initiation of the loan repayment period;

9) All repayments of loan principal and interest must be deposited into the Fund;

10) Annual reporting to the USEPA on the Agency's progress toward meeting its goals and objectives; and

11) Annual audit of the Fund in accordance with the auditing procedures of the General Accounting Office (U.S.C. Chapter 75, Title 31).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 365.240 Requirements for Loan Recipients under Title VI of the CWA**

a) Only local government units will be eligible for loans to construct wastewater treatment works projects.

b) Loan projects must be on the Project Priority List.

c) Loan projects must meet the following requirements in the same manner as wastewater treatment works constructed with grant funds received under Title II of the CWA:

1) Section 201(b) of the CWA (Best Practicable Waste Treatment Technology)

2) Section 201(g)(1) of the CWA (Eligible Project Categories)

3) Section 201(g)(2) of the CWA (Alternative Technology)

4) Section 201(g)(3) of the CWA (Excessive Infiltration/Inflow)

5) Section 201(g)(5) of the CWA (Innovative/Alternative Technology)

6) Section 201(g)(6) of the CWA (Recreational Use and Open Space Opportunities)

7) Section 201(n)(1) of the CWA (Combined Sewer Overflow Projects)

8) Section 201(o) of the CWA (Capital Financing Plans)

9) Section 204(a)(1) and (2) of the CWA (Water Quality Management Plans)

10) Section 204(b)(1) of the CWA (User Charge Systems and Legal Institutional, Managerial and Financial Capabilities)

11) Section 204(d)(2) of the CWA (One Year Project Performance)

12) Section 211 of the CWA (Collection System Restrictions)

13) Section 218 of the CWA (Cost-Effective and Value Engineering Requirements)

14) Section 511(c)(1) of the CWA (National Environmental Policy Act)

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15) Section 513 of the CWA (Davis-Bacon Labor Wage Provisions)

d) Loan projects must be consistent with any plans developed under 205(j), 208, 303(e), and 319 of the CWA.

e) A dedicated source of revenue, sufficient to pay principal and interest when due, must be enacted and pledged by the loan recipient for repayment of the loan.

f) Loan projects must meet federal minority and women owned business requirements in accordance with Executive Orders 11625 and 12138 (reference Appendix A).

g) Loan projects must meet the applicable requirements of any other federal laws and authorities.

h) Loans will be made at or below market interest rates.

i) Loan accounts related to the project construction and the dedicated source of revenue will be maintained by the loan recipient consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987).

j) Loans will be fully amortized not later than 20 years after the earlier of the initiation of operation date or the initiation of the loan repayment period.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

**Section 365.410 Project Priority Determination**

a) Financial assistance may be provided from the Fund, only to local government units that have projects which are on the Project Priority List developed by the Agency.

b) The Project Priority List sets forth the priority for receipt of loans for each loan applicant. Priorities are established in accordance with Agency rules 35 Ill. Adm. Code 3667 (Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works) after the completion and submittal of a loan pre-application by the loan applicant pursuant to Section 365.420 (Pre-Applications for Financial Assistance and Identification of Projects to be Funded). Projects on the Project Priority List will be included on the list of projects in the Intended Use Plan in priority order, provided the project has an approved facilities plan and is scheduled to initiate construction by March 31 of the subsequent federal fiscal year.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 365.420 Pre-Applications for Financial Assistance and Identification of Projects to be Funded**

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a) The pre-application will be submitted by the loan applicant to the Agency in order to determine the relative priority of the project on the Project Priority List and shall include:

- 1) A description of the proposed project;
- 2) An estimated project cost;

3) Documentation of the need for the proposed project;

4) A proposed schedule for construction;

5) Project classification (35 Ill. Adm. Code 366);

6) Discharge location point; and

7) Population tributary to the project.

b) Loan applicants for financial assistance, during any federal fiscal year commencing October 1, must file a new pre-application annually on or before the preceding March 31 to qualify for possible inclusion in the Intended Use Plan, except as provided in subsection (c) below.

c) Pre-applications for emergency projects may be filed at any time.

d) A project with approved facility planning may be added to the Project Priority List at any time by the submission of a pre-application.

e) By July 1 of each year, the Agency shall publish a list of the projects which are proposed for funding during the next federal fiscal year commencing October 1. These projects will be included in the Intended Use Plan.

f) After January 1 of each year, the Agency may substitute other projects listed on the Project Priority List for funding in lieu of the projects in the Intended Use Plan identified in (d) above, if the latter does not meet the schedule contained in the pre-application.

g) The Agency may substitute emergency projects in lieu of projects in the Intended Use Plan, if their priority ranking would place them higher than those listed in the current Intended Use Plan.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 365.430 Financial Assistance Application and Approval

a) The following is required prior to the issuance of a loan commitment letter for projects listed on the annual Intended Use Plan:

1) Completed loan application for financial assistance which includes a proposed disbursement schedule;

2) An approved facilities plan (including an inventory of environmental impacts) in accordance with Section 365.520 (Facilities Planning);

3) Agreement from the loan applicant to pay from other resources any project related costs not included in the loan;

4) Demonstration that the loan applicant has the legal, institutional, managerial and financial capability to insure adequate building, operation, maintenance and replacement of the project in accordance with Section 365.930;

5) Executed inter-governmental agreement necessary for project

## ENVIRONMENTAL PROTECTION AGENCY

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implementation, where necessary;

6) Certification that no unlawful or corrupt practice has taken place in the planning or design of the project;

7) Certification of compliance with that the services of anyone that has been debarred or suspended under federal Executive Order 12549 (reference Appendix A) regarding debarment, suspension and other responsibility matters; has not or will not be used for

planning, design and construction work; and

8) Resolution or ordinance authorizing a representative of the loan applicant to sign loan application documents;

b) The following is required of the loan applicant prior to the issuance of the loan agreement:

1) Evidence of compliance with the Relocation and Real Property Acquisition Policies Act of 1970 (P.L. 91-646);

2) Statement that the necessary project site, rights-of-way, easements and permits for construction of the project have been obtained;

3) Statement of intent to comply with the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4127) in accordance with Section 365.950 (Floodplain Insurance) of this Part;

4) An approved sewer use ordinance and user charge system in accordance with the provisions of Sections 365.910 (Sewer Use Ordinance) and 365.920 (User Charges);

5) Enactment of an authorized loan security and approved dedicated source of revenue in accordance with the provisions of Section 365.940 (Dedicated Source of Revenue);

6) Statement regarding contracts awarded under Sections 10-1 and 10-2 of the Illinois Purchasing Act [30 ILCS 505/10-1 and 10-2] (Rev. Stat. 1991, Ch. 127, pars. 10-1 and 10-2) and the loan applicant's federal taxpayer identification number (74 Ill. Adm. Code 290.1203);

7) Construction drawings and specifications, suitable for bidding purposes;

8) A construction permit application and permit or "authorization to construct" from the Agency, pursuant to the provisions of 35 Ill. Adm. Code 309.154 and 309.202, whichever may be applicable;

9) Identification of project performance standards;

10) Project completion schedule;

11) A proposed loan disbursement schedule;

12) An executed engineering contract for design and construction related work in accordance with Section 365.630 which includes a method of compensation, an access to records clause, a covenant against contingent fees clause, a scope of work, a time of completion, and an MBP-WBB clause, and certification that the services of anyone that has been debarred or suspended will not be used;

13) An approved value engineering study if the estimated project costs exceed \$10 million, in accordance with Section 365.550;



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- 21) ~~14~~ Compliance report (Title VI, Civil Rights Act of 1964 as amended (P.L. 88-352) and Section 13 of the CWA);
- 15) Evidence of compliance with any other applicable State and federal statutory and regulatory requirements;
- 16) A copy of the bid advertisement if the loan applicant is not self-certified in accordance with Section 365.640(e) of this Part;
- 17) Any addenda issued by the loan applicant, if applicable;
- 18) Summary and recommendations as a result of the review of the bids if the loan applicant is not self-certified in accordance with Section 365.640(e) of this Part; if the loan applicant is self-certified, only a copy of the low bidder's bid proposal and the bid tabulation is required;
- 22) ~~19~~ Enactment of an ordinance authorizing the bonds, notes or other evidence of indebtedness to be delivered to the Agency pursuant to the loan agreement; and
- 23) ~~20~~ Delivery of a legal opinion from the loan recipient's legal counsel with respect to the validity and enforceability of the loan recipient's obligations and the absence of conflicts with other agreements, bonds or ordinances.
- b) In addition to the items identified in subsection (a) above, the following items are required prior to the issuance of a loan:
- 1) A copy of the bid advertisement(s) if the loan applicant is not self-certified in accordance with Section 365.640(e) of this Part;
  - 2) Any addenda issued by the loan applicant, if applicable;
  - 3) Certification of publication;
  - 4) Bidder's 5% bid bond or cashier's check;
  - 5) Low bidder's certificate of nonsegregated facilities;
  - 6) Summary of evidence that the contractor has met MBE/WBE requirements;
  - 7) Submittal of bid tabulations;
  - 8) Letter from the engineering firm to the applicant containing the consultant's analysis of bids and engineer's recommendations for the award of the bids;
  - 9) Successful bid proposals;
  - 10) Notice of applicant's intent to award;
  - 11) Certification from the prime contractor or engineer that the services of anyone who has been debarred or suspended under Federal Executive Order 12549 has not or will not be used for construction work (form attached). This certification is also required for all subcontracts over \$25,000.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 365.440 Fixed Loan Interest Rates

- a) No project cost incurred prior to the execution of the loan agreement shall be eligible for loan assistance except:
- 1) Design costs as set forth in Section 365.460 (Limitation on Design Cost) and bid costs related to eligible construction

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The fixed loan rate is comprised of an interest rate and a loan support rate. The fixed loan rate ~~interest rates~~ charged for a wastewater loan shall be a simple annual interest rate as follows:

- a) One-half of the market interest rate but not less than 2.50 percent, except as provided in subsection (b) below.

- b) 2.50 percent for compliance projects provided that:

- 1) The loan applicant submits to the Agency by October 28, 1989, documentation to justify that the proposed project qualifies under the definition of Compliance Project as contained in Section 365.130(b) of this Part; and ~~7-05-was-included-in-an-enforceable-order-judicial-order-Approved-Municipal-Compliance-Plan-111-not-a-Pollution-Control-Board-Order-or-NPDES-permit-pursuant-to-35-ill-Adm-Code-Subtitle-C-issued-on-or-before-October-28-1989-or~~

- A) ~~21~~ The Agency concurs with the justification submitted and agrees that the project qualifies under the definition of Compliance Projects. The Agency will notify the loan applicant in writing of its decision; and

- B) ~~22~~ The loan applicant provides necessary information and loan applications pursuant to Sections 365.402, 365.403(a) and 365.403(b) in a manner consistent with the Agency's management of the annual Intended Use Plan and Project Priority List; and

- C) ~~23~~ The compliance project is included in an enforceable schedule (judicial order, Illinois Pollution Control Board Order or permit compliance schedule pursuant to 35 Ill. Adm. Code: Subtitle C) before the issuance of the loan agreement and the loan is offered prior to June 30, 1999; or

- 2) The compliance project was included in an enforceable order (Judicial Order Approved Municipal Compliance Plan, Illinois Pollution Control Board order or NPDES permit pursuant to 35 Ill. Adm. Code: Subtitle C issued on or before October 28, 1989; and

- A) The loan applicant provides necessary information and loan applications pursuant to Sections 365.420, 365.430(a) and 365.430(b) in a manner consistent with the Agency's management of the annual Intended Use Plan and Project Priority List; and

- B) The loan is offered prior to June 30, 1999.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 365.450 Restrictions on Refinancing

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contracts; and

- 2) Compliance project costs where the local obligations were incurred and where construction was initiated after March 7, 1985.
- b) Notwithstanding subsection 365.450(a)(2) of this Section, no costs incurred under a construction contract awarded more than 90 days after the effective date of this Part shall be allowable for loan refinancing unless the Agency has granted written approval prior to the contract award.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 365.460 Limitation on Design Cost**

Allowable costs for design of the loan project will be limited to the actual cost incurred for design up to a maximum percentage of the allowable as bid construction cost.

- a) For less than \$500,000 the design will be funded up to 15 percent of the as bid construction cost.
- b) From \$500,001 to \$2,000,000, the design will be funded up to 12 percent of the as bid construction cost.
- c) From \$2,000,001 to \$5,000,000, the design will be funded up to 10 percent of the as bid construction cost.
- d) From \$5,000,001 to \$10,000,000, the design will be funded up to 8 percent of the as bid construction cost.
- e) For greater than \$10,000,000 the design will be funded up to 7 percent of the as bid construction cost.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**SUBPART E: PLANNING REQUIREMENTS FOR LOAN PROJECTS****Section 365.520 Loan Applicant's Responsibilities During Facilities Planning**

- a) The loan applicant shall:

- 1) undertake and complete facilities planning, which shall consist of plans and studies which are directly related to the construction of wastewater treatment works, to maintain compliance with State and Federal requirements as specified in 35 Ill. Adm. Code: Subtitle C7 and the CWA.
- 2) demonstrate to the Agency through such plans and studies the need for the facilities for which loan assistance is being requested and, by a systematic evaluation of feasible alternatives, it shall also demonstrate that the proposed facilities represent the cost-effective means of meeting applicable effluent limitations and water quality standards and goals, recognizing environmental

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and social conditions as set forth below.

- b) If the information required to be furnished as part of a facilities plan has been developed separately, it shall be furnished and incorporated by reference in the facilities plan. Planning previously or collaterally accomplished under local, State or Federal programs will be utilized (not duplicated).
- c) The facilities plan shall be submitted ~~submitted~~ for review and approval by ~~shall include ordinances or a resolution from the loan applicant, endorsing the facilities plan.~~ Where applicable, the applicant shall also submit draft inter-governmental agreements and demonstrations of legal authority necessary for plan implementation.
- d) The facilities plan may include more than one construction project and provide the basis for several subsequent construction projects. A facilities plan which has served as the basis for providing a loan for a construction project shall be reviewed prior to providing any loan changes have occurred which require amendments to the facilities plan ~~in accordance with Section 365.560. If in the judgement of the Agency, substantial changes have occurred which warrant revision or amendment as specified in Section 365.530, the plan shall be revised or amended and resubmitted submitted for review and approval in accordance with the provisions of in the same manner specified in Section 365.530 (a) and (b). Substantial changes would include but not be limited to:~~

- 1) ~~changes in actual or projected population; and~~
- 2) ~~relocation of an industry.~~

- e) Facilities planning shall, as a minimum, be in accordance with the following requirements. Such facilities plan shall include:

- 1) A description of the wastewater treatment works for which construction drawings and specifications are to be prepared. This description, as a minimum, shall include preliminary engineering data, cost estimates for design and construction of the wastewater treatment works and a schedule for completion of design and construction. The preliminary engineering data may include, to the extent appropriate, such information as a schematic flow diagram, unit processes, design data regarding detention times, flow rates, sizing of units, etc.
- 2) A complete description of the selected complete waste treatment system(s) of which the proposed wastewater treatment works is a part.
- 3) Infiltration/Inflow documentation in accordance with Section 365.510 (Sewer System Evaluation and Rehabilitation). The loan applicant must document in facilities planning that the sewer system discharging into the wastewater treatment works is not subject to excessive infiltration/inflow or provide a sewer system evaluation survey along with the cost-effective scope of proposed rehabilitation work, for any project involving construction of additional wastewater treatment works capacity.



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- 4) A cost-effectiveness analysis of appropriate alternatives for the wastewater treatment works to assure that the project proposed constitutes BPTWT. The selection of the wastewater treatment works on which construction drawings and specifications are to be based shall reflect the cost-effectiveness analysis. This analysis shall include when appropriate:

- A) The relationship of the nature, size and capacity of the wastewater treatment works to the needs to be served, including reserve capacity;
  - B) An evaluation of alternatives including those technologies and techniques for beneficial recycling and reuse of wastewaters where appropriate;
  - C) An evaluation of the capability of each alternative to meet applicable effluent limitations. The wastewater treatment works design must be based upon meeting effluent limitations and maintaining compliance with State or federal requirements as specified in 35 Ill. Adm. Code: Subtitle C7 and the CWA;
  - D) An evaluation of the alternative means by which ultimate disposal can be effected for treated wastewater and for sludge materials resulting from the treatment process;
  - E) An evaluation of water reclamation, water recycling, recreational opportunities and open space opportunities; and
  - F) An inventory of environmental impacts of the alternatives within the planning area in accordance with Section 365.530(c) and discussion as to what measures are being or will be taken during planning, design and construction to avoid or mitigate potential negative environmental impacts.
- 5) An identification of effluent discharge limitations or a copy of the permit for the proposed wastewater treatment works as required by Title IV of the CWA.
- 6) Required comments or approvals of relevant State, interstate, regional, and local agencies.
- 7) The loan applicant shall certify demonstrate that the authorities which will be implementing the plan have the necessary legal, financial, institutional, and managerial capability to insure the construction, operation, and maintenance of the proposed wastewater treatment works.
- 8) The scope of each wastewater treatment works project defined within the facilities plan as being required for implementation of the plan, and for which State assistance will be requested, shall define:
- A) Any necessary new wastewater treatment works construction; and
  - B) Any rehabilitation work determined by the sewer system evaluation to be necessary for the elimination of excessive infiltration/inflow. However, rehabilitation which should be a part of the loan applicant's normal operation and

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maintenance responsibilities shall not be included within the scope of a wastewater treatment works construction project.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 365.530 State Environmental Review

- a) Prior to making a final determination on the acceptability of a facilities plan, the Agency shall determine if the project is subject to an environmental review. An environmental review shall be required in all cases, except that certain entire classes of projects may be categorically excluded from environmental review when, by virtue of their limited scope, they have no potential for negative environmental impacts. will conduct a review of the impacts of the proposed project and shall prepare for public comment a written preliminary Environmental Impacts Determination. Interested members of the public will be given adequate opportunity to comment both on the plan and the Agency's environmental review. After receiving and assessing public comment, the Agency shall take a final action to approve or disapprove the planning. This determination shall be issued in writing to the loan applicant and interested members of the public.
- b) The Agency shall not undertake its environmental review until it has determined that the facilities plan conforms to the requirements listed in Sections 365.510 (Sewer System Evaluation and Rehabilitation) and 365.520 (Loan Applicant's Responsibilities During Facilities Planning), and that based on the information available all reasonable measures have been taken in the planning to avoid and mitigate negative environmental impacts.
- c) The scope of the Agency's environmental review shall include, but not be limited to, an assessment of the impacts of both the loan funded project and the overall planning on rare and endangered species, historic/cultural resources, prime agricultural land, air and water quality, recreational areas, wetlands, floodplains and other sensitive environmental areas. The review shall also assess the direct and indirect impacts of construction on the community.
- d) For all projects requiring an environmental review, the Agency will assess the environmental impacts of the proposed project and prepare a written Preliminary Environmental Impacts Determination. Interested members of the public will be given an opportunity to comment both on the facilities plan and the Agency's assessment of environmental impacts. The Agency may identify certain classes of construction projects which, by their limited scope, preclude the potential for negative environmental impacts. The Agency may categorically exclude these projects from environmental review by providing written public notice and soliciting public comment on each project.



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- e) The Preliminary Environmental Impacts Determination shall be mailed to the loan applicant and other interested parties, inviting public comment. Within 90 days of receipt of the Agency's preliminary determination, the loan applicant will hold a public hearing on the plan and the Agency's Preliminary Environmental Impacts Determination for the purpose of obtaining public comment.
- f) The time and place of the public hearing shall be conspicuously and adequately announced. In addition, the Agency's Preliminary Environmental Impacts Determination document shall be displayed at a convenient local site sufficiently prior to the hearing to obtain a level of public participation appropriate to the scope and impacts of the project. In no case will the public notice period be less than 21 days.
- g) The loan applicant shall provide interested local, State and federal agencies, State and regional clearinghouses, citizen groups and local public officials with written notice of the public hearing.
- h) The loan applicant will provide to the Agency an accurate summary of all public comments received together with any proposed amendments to the plan made in response to these comments.
- i) Upon receipt of this public hearing summary and the expiration of a 15 day comment period from the day of the hearing, the Agency shall provide in writing any one of the following:
- 1) an unconditional approval of the plan (original or as amended); or
  - 2) a conditional approval of the plan with special conditions for mitigation of negative environmental impacts; or
  - 3) disapproval of the plan based on evidence of significant negative environmental impacts for which appropriate mitigative measures have not been identified; or
  - 4) determination to prepare an Environmental Impact Statement (EIS) which the Agency may at its sole discretion prepare or have prepared by a qualified outside contractor. The Agency may reconsider approval or conditional approval of the project based on the recommendations of the EIS.
- j) For projects categorically excluded from the environmental review process, the Agency shall provide to the applicant a Notice of Intent to Issue a Categorical Exclusion. The applicant shall publish in the newspaper of local record a public notice of this Intent, provide public access to the planning documents and Agency Notice of Intent, and allow 15 days for public comment. If no valid objection is raised to the Categorical Exclusion, the Agency shall issue an Unconditional Approval of the plan at the close of the public comment period. Should valid concerns be raised over potential environmental impacts, the Agency shall proceed to the normal environmental review process outlined above or issue a Conditional Approval where mitigative measures have been identified which would clearly resolve environmental impacts. ~~The Agency may reconsider its approval of the facilities plan at any time based on circumstances, including out-~~

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- ~~limited to 90 days after the date of the State or Federal law or technology, but must re-review the Facility Plan if the loan offer has not been made within 5 years after the approval of the facilities plan by the Agency.~~
- k) Agency approval of a facilities plan shall be valid for purposes of loan funding for a period of five years, after which time it must be updated and subject again to Agency review and approval. The Agency shall prepare a revised environmental review and require a second round of public comment in accordance with these rules in those cases where changes in circumstance, project scope, or cost impacts warrant. ~~Agency facilities planning determinations made in accordance with subsection 17 above shall be subject to the provisions of the Illinois Administrative Procedure Act (618 ILCS 199.17-199.17-1277) after 160 days.~~
- l) At any time less than 5 years following the date of facilities plan approval, the Agency may rescind its approval and require amendment of the planning based on changes to the scope of proposed construction of significant alterations to planning area conditions or underlying assumptions that might alter conclusions regarding environmental impacts or the cost-effectiveness of the proposed project. Prior to granting approval of amended planning, the Agency may require a second round of public comment where substantial changes in environmental or economic impacts result from the amended plan.
- m) Additions to the project scope or changes to the location of proposed construction activity will normally require an amendment to an approved facilities plan. Where the Agency determines that the proposed changes will not alter the previous environmental impacts findings, the Agency will approve planning amendments by letter. In other cases, a second round of environmental review or public comment may be required as appropriate.
- n) Agency facilities planning determinations made in accordance with subsection (1) above shall be subject to the provisions of the Illinois Administrative Procedure Act (5 ILCS 100).

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 365.550 Value Engineering Requirements

- Value engineering consists of an intensive, independent review of plans and specifications utilizing a specialized cost control technique to identify unnecessary high cost items in the proposed project.
- a) Value engineering is required for all projects which are estimated to cost over \$10 million for the total project building construction cost.
  - b) The value engineering effort must be approved prior to the issuance of the loan agreement.
  - c) After each value engineering review is completed, the loan recipient

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must obtain a summary report and recommendations.

- d) The loan recipient must review the recommendations and either accept, modify or reject them and send a summary of proposed action along with the value engineering report to the Agency for review and approval.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

**Section 365.620 Construction Contracts of Loan Recipient**

This procedure shall apply to construction contracts (subagreements) awarded by loan recipients for the construction phase only. It shall not apply to personal and professional service contracts.

- a) Contract documents must include bid, performance and payment bonds.  
b) Each contract shall be awarded after formal advertising, unless negotiation is permitted in accordance with Section 365.610(i) (Negotiation of Subagreements) above. Formal advertising shall be in accordance with the following:

## 1) Adequate bidding documents

Bidding documents (invitations for bid) shall be made available by the loan recipient and shall be furnished upon request in a timely manner. A complete set of bidding documents shall be maintained by the loan recipient and shall be available for inspection and copying by any party. Such bidding documents shall include:

- A) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule. (Drawings and specifications may be made available for inspection instead of being furnished.);  
B) The terms and conditions of the contract to be awarded;  
C) A clear explanation of the method of bidding, the method of evaluation of bid prices, and the basis and method for award of the contract;  
D) The statement that any contract awarded in response to the bid is expected to be funded in part by a loan from the Fund. Neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to this bidding or any resulting contract;  
E) Responsibility requirements or criteria which will be employed in evaluating bidders, provided that an experience requirement or performance bond may not be utilized unless adequately justified under the particular circumstances by the recipient;  
F) A copy of subsections (b)(1)(G) and (H) below shall be in the proposal form to be used by bidders and, will constitute a representation and certification to be considered as a

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part of their bid;

- G) By submission of the bid, each bidder certifies, and in the case of a joint bid each party thereto certifies as to his own organization, that in connection with the bid:

- i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;  
ii) Unless otherwise required by law, the prices which have been quoted in the bid have not knowingly been disclosed by the bidder, prior to opening, directly or indirectly to any other bidder or to any competitor; and  
iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition; and  
H) Each person signing the bid shall certify that:  
i) He is the person in the bidder's organization responsible for the decision as to the prices being bid and that he has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above; or  
ii) He is not the person in the bidder's organization responsible for the decision as to the prices being bid, but that he has been authorized to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above, and as their agent shall so certify. He shall also certify that he has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above.

## 2) Addenda to bidding documents

If the loan recipient desires to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the addenda shall be communicated in writing to all firms who have obtained bidding documents in time to be considered prior to the bid opening time. When appropriate, the period for submission of bids shall be extended. Any addenda issued to the bidding documents should be submitted to the Agency for approval prior to the bid opening.

- 3) Award to the low, responsive, responsible bidder  
A) After bids are opened, they shall be evaluated by the loan recipient in accordance with the methods and criteria set forth in the bidding documents.  
B) The loan recipient may reserve the right to reject all bids

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if it has documented sound business reasons. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the loan recipient, except in the case of a loan recipient that is self-certified in accordance with Section 365.640(e) of this Part. Agency approval of the bid evaluation is not required prior to the award of the construction contract when loan recipients are self-certified.

- C) If award is intended to be made to a firm which did not submit the lowest bid, a written statement shall be prepared prior to any award and retained by the loan recipient explaining why each lower bidder was deemed not responsive or not responsible.

## c) Negotiations of Contract Amendments (Change Orders)

## 1) Loan Recipient responsibility

The loan recipient is responsible for negotiation of construction contract change orders. This function may be performed by the loan recipient directly or, if authorized, by its consulting engineer. During negotiations the loan recipient shall:

- A) Make sure that the contractor has a clear understanding of the scope and extent of work and other essential requirements;
- B) Assure that the contractor demonstrates that he will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and
- C) A summary of all negotiations and the engineer's independent cost estimate shall be maintained with the records.
- 2) Changes in contract price or time
- The contract price or time may be changed only by a change order. When negotiations are required, they shall be conducted in accordance with subsection (c) of this Section.
- 3) For each change order the contractor shall submit to the loan recipient for review sufficient cost and pricing data to enable the loan recipient to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.
- 4) Agency review
- For any change order, the loan recipient shall submit to the Agency for its review and approval ~~no later than 60 days after execution of the change order~~ the following required documentation:

- A) A description of the changed work; ~~the cost and pricing data submitted by the contractor;~~
- B) The contractor's proposal itemizing the cost and time to complete the changed work; ~~A certification of review and~~

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~~acceptance of the contractor's cost or price.~~

- C) The recipient or engineer's estimate of the cost and time to complete the changes;
- D) ~~Two copies of the executed change order with justification including, but not limited to, the need for the proposed work and the technical solution; and~~
- E) ~~The summary of negotiations and resolution between the engineer's independent cost estimate and the contractor's proposal.~~

d) ~~Required Construction Contract Provisions~~ Each construction contract shall include the following provisions:

## 1) Audit; access to records:

- A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on loan work under this agreement consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards (666 Fifth Avenue, New York, New York, 10019; June 1, 1987). The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of any cost submissions required under subsection (c) above (Negotiation of Contract Amendments, Change Orders) and a copy of the cost summary submitted to the owner. The Auditor General, the owner, the Agency, or any of their duly authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The contractor will provide facilities for such access and inspection.

- B) If this contract is a formally advertised, competitively awarded, fixed price contract, the contractor agrees to include access to records as specified in subsection (d)(1)(A) above. This requirement is applicable to all negotiated change orders and contract amendments in excess of \$25,000 which affect the contract price. In the case of all other prime contracts, the contractor also agrees to include access to records as specified above in all his contracts and all tier subcontracts or change orders thereto directly related to project performance which are in excess of \$25,000.

- C) Audits conducted pursuant to this provision shall be consistent with generally accepted auditing standards in accordance with the American Institute of Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987).

- D) The contractor agrees to the disclosure of all information and reports resulting from access to records pursuant to subsection (d)(1)(A) above. Where the audit concerns the



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contractor, the auditing agency will afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.

E) Records under subsection (d)(1)(A) above shall be maintained and made available during performance of the work under this loan agreement and until three years from the date of final loan audit for the project. In addition, those records which relate to any dispute or litigation or the settlement of claims arising out of such performance, costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such dispute, appeal, litigation, claim, or exception.

F) The right of access conferred by this clause will generally be exercised (with respect to financial records) under:

- i) negotiated prime contractors;
- ii) negotiated change orders or contract amendments in excess of \$25,000 affecting the price of any formally advertised, competitively awarded, fixed price contract; and
- iii) subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract.

G) This right of access will generally not be exercised with respect to a prime contract, subcontract, or purchase order awarded after effective price competition. In any event, such right of access shall be exercised under any type of contract or subcontract:

- i) with respect to records pertaining directly to contract performance, excluding any financial records of the contractor; and
- ii) if there is any indication that fraud, gross abuse, or corrupt practices may be involved.

2) Covenant against contingent fees.

The contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the owner shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

3) Wage provisions.

The Contractor shall pay prevailing wages in accordance with the federal Davis-Bacon wage provisions (40 U.S.C. 276a through

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276a-5).

4) MBE/WBE Requirements

Evidence that the contractor has taken affirmative steps, such as, but not limited to, a copy of the advertisement(s) and the record of negotiation in accordance with federal Executive Orders 11625 and 12138 (reference Appendix A), to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction and services.

5) Debarred or suspended provisions.

A provision requiring the successful bidder(s) to submit a certification of compliance with ~~that the services of anyone that has been debarred or suspended under Federal Executive Order 12549 (reference Appendix A7) regarding debarment, suspension and other responsibility matters. will not be used for construction work.~~

e) Subcontracts under Construction Contracts

The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by such prime contractor in awarding or executing such subcontracts shall comply with:

- 1) All provisions of federal, State and local law;
- 2) All provisions of this Part with respect to fraud and other unlawful or corrupt practices; and
- 3) All provisions of this Part with respect to access to facilities, records and audit of records; and
- 4) The provision requiring a certification of compliance with ~~that the services of anyone that has been debarred or suspended under federal Executive Order 12549 (reference Appendix A) regarding debarment, suspension, and other responsibility matters. will not be used for construction work.~~

f) Contractor Bankruptcy

In the event of a contractor bankruptcy, the loan recipient shall notify the Agency and shall keep the Agency advised of any negotiations with the bonding company including any proposed settlement. The Agency may participate in those negotiations and will advise the loan recipient of the impact of any proposed settlement to the loan agreement. The loan recipient shall be responsible for assuring that every appropriate procedure and incidental legal requirement is observed in advertising for bids and re-awarding a construction contract.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 365.630 Contracts for personal and Professional Services  
~~---Consulting-Engineering-Agreements~~

All subagreements of loan receipts for personal and professional architectural

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~~or engineering~~ services for design or construction that will be paid with loan funds, where the aggregate amount of services involved is expected to exceed \$25,000, must include the following subagreement provisions:

- a) Subagreements for personal and professional construction ~~architectural or engineering design~~ services must include:

1) Evidence that ~~the consulting engineer has taken~~ affirmative steps have been taken, such as, but not limited to, a copy of the advertisement(s) and the record of negotiation in accordance with federal Executive Order 11625 and 12138 (reference Appendix A), to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction, and services;

2) An "audit, access to records" clause as follows:

A) Subsections ~~the engineer agrees to include~~ ~~subsections (a)(2)(B) thru (E) thru~~ below shall be included in all his contracts and all subcontracts directly related to project services that ~~performance which~~ are in excess of \$25,000.

B) Books, ~~the engineer shall maintain books~~ records, documents and other evidence directly pertinent to performance of Agency loan work under this agreement shall be maintained consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987). The Agency or any of its duly authorized representatives shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities ~~the engineer will provide facilities~~ for such access and inspection shall be provided.

C) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards.

D) Disclosure ~~the engineer agrees to the disclosure~~ of all information and reports resulting from access to records pursuant to subsection (a)(2)(B) above shall be provided to the Agency. ~~The where the audit concerns the engineer, the auditing agency will afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties.~~

E) Records under subsection (a)(2)(B) ~~thru~~ above shall be maintained and made available during performance of project services ~~on Agency loan work~~ under this agreement and until three years after the final loan closing. ~~from date of final Agency loan audit for the project.~~ In addition, those records which relate to any "dispute" appeal under an Agency loan agreement, or litigation, or the settlement of claims

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arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception;

3) A "covenant against contingent fees" clause as follows: The professional services contractor ~~engineer~~ warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee; and

4) A certification of compliance with ~~that the services of anyone that has been debarred or suspended under~~ federal Executive Order 12549 (reference Appendix A) regarding debarment, suspension and other responsibility matters: ~~has not or will not be used for planning design and construction.~~

5) The scope and extent of the project work;

6) The schedule for performance and completion of the contract work including, where appropriate, dates for completion of significant project tasks; and

7) A method of compensation.

b) Subagreements for personal and professional design ~~architectural or engineering construction~~ services must include the following subagreement provisions ~~in addition to those~~ contained in subsections (a)(2) - (a)(4) above. In addition, the subagreement must be accompanied by a statement regarding the extent of small, minority and women's business utilization during the design service phase.

1) ~~The scope and extent of the project work;~~

2) ~~The schedule for performance and completion of the contract work including where appropriate dates for completion of significant project tasks; and~~

3) ~~A method of compensation.~~

c) If any of the above elements cannot be defined adequately for later tasks at the time of contract execution, the subsequent tasks shall not be included in the contract at that time.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 365.660 Indemnity

The loan recipient shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the loan recipient, the

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Agency or third persons, and any injury to or death of any persons (including employees of the loan recipient) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of this loan, and the loan recipient shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for any such loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of Section 1 of the Construction Contract Indemnification for Negligence Act ~~405-Rev. 1987-CH-29, par. 617.~~ in relation to indemnity in certain contracts [740 ILCS 35/1] ~~that any and all contractors or subcontractors engaged by the loan recipient shall agree in writing that they shall look solely to the loan recipient for performance of such contract or satisfaction of any and all claims arising thereunder.~~

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

## Section 365.720 Project Changes

- a) Prior approval by the Agency is required for project changes which may:
- 1) Increase the amount of loan funds needed to complete the project;
  - 2) Alter the design or scope of the project;
  - 3) Alter the type of treatment to be provided;
  - 4) Extend any contractual ~~or loan~~ completion date ~~for the project~~;
  - 5) Alter the location, size, capacity or quality of any major item of equipment; or
  - 6) Alter the scope of the project by changing the methodologies or personnel to be used as agreed to at the time the loan is provided.
- b) The Agency's approval of project changes is based on, but not limited to, changes that are cost-effective and within the overall scope of the treatment works for which the loan was issued, based on approved facilities planning.
- c) The loan recipient shall promptly notify the Agency, in writing, of all project changes. Failure on the part of the loan recipient to give timely notice of proposed project changes or action by the loan recipient that is not consistent with the Agency's determination on such changes may, in accordance with Section 365.310 (Noncompliance with Loan Procedures), result in:
- 1) Disallowance of loan participation for costs incurred which are attributable to the change; and
  - 2) Termination of the loan.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 365.730 Construction Engineering

The loan recipient will assure that the construction substantially conforms with the approved plans and specifications by providing adequate construction engineering and monitoring of the project.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 365.740 Operation and Maintenance of the Project Project-Sign

~~The loan recipient shall erect and display at the project site a sign acknowledging the source of funds for the project. The sign in form and style to be determined by the Agency shall be erected at the start of construction at a location appropriate for public viewing and shall be maintained until the project is completed.~~

The Agency shall not approve the final inspection for the project unless the loan recipient has certified that the following training and operation and maintenance documents have been provided.

- a) Training pertaining to the proper operation and maintenance of the equipment and process units included in this project.
- b) An operation and maintenance reference library which includes but is not limited to the following:
  - 1) Manufacturer's literature, shop drawings and warranties as well as maintenance schedule for the equipment and process units included in the project;
  - 2) The plans of record with valve indices for the equipment and process units included in the project. For mechanical wastewater treatment plants, the valve index shall include a listing of valve positions for each possible alternate flow configuration including by-passing of individual treatment processes and units and recommended configurations for emergency conditions that could reasonably be expected to occur; and
  - 3) A maintenance schedule for the equipment and process units included in the project.
- c) Training pertaining to the general operation of treatment plants or collection systems consisting of an operator self-study course such as Operation of Wastewater Treatment Plants, 1980, 2nd edition (three volumes) or Operation and Maintenance of Wastewater Collection Systems, 1983, 1st edition, California State University, Department of Civil Engineering, Sacramento, California.

(Source: Former Section 365.740 repealed, new Section 365.740 renumbered from Section 365.750 and amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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**Section 365.750 Final Inspection Operation and Maintenance of the Project**

The loan recipient must notify the Agency in writing within 30 days of the completion of project construction and submit the final change order, along with the contractor's final costs. The plans of record must be forwarded to the appropriate Agency regional office. The Agency shall schedule the final inspection within 60 days of the receipt of the notice provided all necessary change orders have been submitted and approved by the Agency.

(Source: Former Section 365.750 renumbered to Section 365.740 and new Section 365.750 renumbered from Section 365.760 at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 365.760 Project Performance Certification Final Inspection**

a) The loan recipient shall certify one year after the date of initiation of operation whether or not the wastewater treatment works meets the design specifications and effluent limitations contained in the loan agreement and National Pollutant Discharge Elimination System (NPDES) permit for the wastewater treatment works.

b) If the loan recipient cannot certify that the wastewater treatment works will meet the design specifications and effluent limitations, a corrective action report must be submitted to the Agency within one year after initiation of operation. Failure to submit the report will subject the loan to penalties in accordance with Section 365.310 (Noncompliance with Loan Procedures).

(Source: Former Section 365.760 renumbered to Section 365.750 and new Section 365.760 renumbered from Section 365.770 at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

**Section 365.770 Project Performance Certification (Renumbered)**

(Source: Section 365.770 renumbered to Section 365.760 at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING, AND RECORDS

**Section 365.820 Audit and Records**

a) The loan recipient shall maintain books, records, documents, reports, and other evidentiary material and accounting procedures and practices consistent with generally accepted government accounting standards in accordance with the American Institute of Public Accountants Professional Standards (666 Fifth Avenue, New York, New York 10019; June 1, 1987).

i) The receipt and disposition by the loan recipient of all assistance received for the project, including both State

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assistance and any matching share or cost sharing; and

2) The costs charged to the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the loan has been provided. The foregoing constitutes "records" for the purposes of this subsection.

b) The loan recipient's facilities, or such facilities as may be engaged in the performance of the project for which the loan has been provided, and the loan recipient's records shall be subject at the times specified in Section 365.810 (Access) to inspection and audit by the Agency or any authorized representative.

c) The loan recipient shall preserve and make his records available to the Agency or any authorized representative.

1) For all costs associated with design and construction for a 3 year period after final closing from the date of final Agency audit under this loan:

2) For all other accounting records concerning the loan for a 3 year period from the date of the transaction; and

3) For such longer period, if any, as is required by applicable statute or lawful requirement, or by subsections (d) and (e) below.

d) If this loan is terminated completely or partially, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final termination settlement.

e) Records which relate to appeals under the "Disputes" clause of this loan, litigation or the settlement of claims arising out of the performance of the project for which this loan was provided, or costs and expenses of the project as to which exception has been taken by the Agency or any of its duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed.

f) Any failure by the loan recipient or any contractor or subcontractor of the loan recipient to make records available to the Agency as required by Section 365.810 (Access) after 10 days written notice from the Agency, shall be cause for termination of the loan, pursuant to Section 365.330 (Termination) and refund to the State of Illinois for deposit into the Fund any unexpended loan funds and, in addition thereto, refund of any loan funds previously expended by the loan recipient, contractor or subcontractor found in compliance with this Section.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

SUBPART I: REQUIREMENTS FOR SEWER USE ORDINANCE, USER CHARGES, FINANCIAL CAPABILITY, DEDICATED SOURCE OF REVENUE AND FLOODPLAIN INSURANCE

**Section 365.920 User Charges**

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- a) The loan applicant must obtain approval by the Agency of its proposed system of user charges prior to the execution of the loan agreement. The user charge system must be enacted and enforceable prior to the first loan disbursement.

- b) The Agency's approval of a user charge system will be in accordance with the following criteria:

1) The user charge system must result in the distribution of the cost of operation, maintenance and replacement of treatment works within the loan recipient's service area to each user (or user class) in proportion to such user's contribution to the total wastewater loading of the wastewater treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation, maintenance, and replacement costs to each user (or user class).

2) For the first year of operation of new facilities, operation, maintenance and replacement costs shall be based upon past experience for existing wastewater treatment works or some other rational method that can be demonstrated to be applicable.

3) The loan recipient shall review user charges annually and revise the rates periodically to reflect actual wastewater treatment works operation, maintenance, and replacement costs. The Agency may request a report on the loan recipient shall report to the Agency after the initiation of operation and on an annual basis thereafter the status of the user charge system including projected costs, actual costs, revenue generated and fund balances.

4) The user charge system must generate sufficient revenue to offset the cost of all wastewater treatment works operation, maintenance and replacement required to be provided by the loan recipient.

5) The user charge system must be incorporated in one or more municipal legislative enactments or other appropriate authority. If the project is a regional treatment works accepting wastewaters from treatment works owned by others, then the subscribers receiving wastewater treatment services from the loan recipient shall have adopted user charge systems. Such user charge systems shall also be incorporated in the appropriate municipal legislative enactments, intergovernmental agreements or other appropriate authority.

- c) Upon approval of a loan recipient's system of user charges, the implementation and maintenance of the approved system shall become a condition of the loan subject to the provisions of Section 365.310 (Noncompliance with Loan Procedures) hereof.

d) The loan recipient must maintain records necessary to document compliance. The loan recipient shall maintain such records in accordance with the provisions of the Local Records Act [50 ILCS 205] ~~50 ILCS 205~~.

e) The Agency or any authorized representative shall have access to any

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books, documents, papers, and records of the loan recipient which are applicable to the loan recipient's system of user charges for the purpose of making audit, examination, excerpts, and transcriptions thereof to ensure compliance with the provisions of subsection (b) above.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 365.940 Dedicated Source of Revenue

a) A source of revenue shall be dedicated and pledged to make the loan repayments. The Agency will review the proposed dedicated and pledged revenue source to determine that it will generate revenues adequate to make the loan repayments and will provide a continuing source of revenue adequate to make loan repayments for the term of the loan, prior to loan approval. If that source of revenue is pledged in a subordinate position to a revenue bond ordinance, the covenants regarding coverage and reserve shall be identical to that ordinance.

b) The loan applicant shall make the necessary legislative enactments to dedicate and pledge the source of revenue, prior to the first loan disbursement.

c) The loan applicant shall establish an account, maintained by a bank or trust, which is restricted to use for loan repayment, in which to deposit the dedicated revenues prior to the time of the first loan disbursement.

d) The loan applicant shall, for the term of the loan, review and adjust the dedicated source of revenue as necessary, to provide adequate funds for the repayment of the loan. The recipient shall timely notify and submit, for the Agency's subsequent approval, all proposed changes to the dedicated source of revenue.

e) The loan recipient shall submit to the Agency upon request a statement on the status of the restricted account after initiation of operation and on an annual basis thereafter for the term of the loan repayment period. This statement shall contain the status of the dedicated revenue account including the projected revenues, actual revenues fund balance, debt service obligations and other requirements of the loan agreement. The Agency's approval will be based on, but not limited to, ensuring that the revised dedicated source of revenue is legal, generates sufficient revenue and otherwise is in accordance with this Part.

f) In the event that the actual revenues fall short of the amount required to retire the debt, the Agency will require the dedicated revenue source to be re-examined and restructured, as necessary.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART J: REQUIREMENTS APPLICABLE TO DISBURSEMENT  
OF LOANS TO RECIPIENTS

## Section 365.1010 Determination of Allowable Costs

The loan recipient will be paid, upon request, in accordance with Section 365.1030 (Disbursement of Loan Funds), for all costs within the scope of the approved project not to exceed the total loan provided and determined to be allowable in accordance with the following criteria:

## a) Allowable Project Costs

All reasonable and necessary costs directly attributable to the design and construction of an eligible, loan assisted wastewater project, if not forbidden for loan funding by legislation or non-waivable regulation. Categories of necessary costs may include but are not limited to the following:

- 1) The direct purchase of materials, equipment and personal services specifically necessary for the completion of a loan funded project;
- 2) Professional and consultant services contracts necessary for design, bidding, construction, and project performance certification of a loan funded project, except as elsewhere limited by this Part;
- 3) Costs under approved construction contracts;
- 4) Costs for required insurance premium for floodplain insurance during the construction period.

## b) Ineligible Costs

Certain costs which may be related to construction of a treatment works are categorically ineligible for loan assistance, and are not subject to the allowability test of "reasonable and necessary."

- 1) Facilities planning costs;
- 2) Basin or areawide planning other than facilities planning;
- 3) Costs outside the scope of the approved facilities plan;
- 4) Site acquisition, including easement compensation, except in those instances where the land itself shall serve as the medium for treatment (e.g., land for spray irrigation of wastewater);
- 5) Collector sewers with wastewater capacity in excess of existing or planned treatment plant capacity;
- 6) Construction of any facilities which do not clearly comply with the definition of a "treatment works" as contained in Section 212 of the Clean Water Act.

the loan recipient will be paid, upon request, in accordance with Section 365.1030 (Disbursement of Loan Funds), for all necessary costs within the scope of the approved project not to exceed the total loan provided and determined to be allowable in accordance with the following criteria:

## a) Allowable Project Costs

Proper costs of the loan recipient which are reasonable and necessary are allowable. Necessary costs may include but are not limited to:

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- 1) The direct purchase of materials and equipment necessary for the completion of the proposed loan project. The direct purchase of personal services is an allowable cost only if the individual(s) are hired specifically to work on the proposed loan project.
  - 2) Costs under construction contracts.
  - 3) Professional and consultant services.
  - 4) Actual costs incurred for preparation of user charge system construction drawings, specifications, estimates, surveys, and construction contract documents, subject to the limitations in Section 365.160 (Limitation on Design Costs).
  - 5) Landscaping.
  - 6) Observation of construction work.
  - 7) Removal and relocation or replacement of utilities for which the loan recipient is legally obligated to pay.
  - 8) Materials acquired, consumed, or expended specifically for the project.
  - 9) An inventory of laboratory chemicals and supplies necessary to initiate plant operations.
  - 10) Project identification sign.
  - 11) Costs for required insurance premium for floodplain insurance during the construction period, and
  - 12) Services of the prime engineer for project performance services during the one-year period following initiation of operation.
- b) Unallowable Costs
- Some costs which are directly or indirectly related to the construction of a treatment works project are unallowable. Such costs include but are not limited to:
- 1) Facilities planning costs.
  - 2) Basin or areawide planning not directly related to the project.
  - 3) Bonus payments for completion of construction in advance of a contractual completion date.
  - 4) Personal injury compensation or damages arising out of the project, whether determined by adjudication, arbitration, negotiation, or otherwise.
  - 5) Fines and penalties resulting from violations of or failure to comply with Federal, State or local laws.
  - 6) Costs outside the scope of the approved project.
  - 7) Ordinary operating expenses of local government, such as salaries and expenses of a mayor, city council members, or city attorney.
  - 8) Site acquisition, fire, wastewater treatment plant, sewer easements, or sludge disposal areas except as otherwise provided in subsection (c)(1).
  - 9) Costs for which payment has been or will be received under another State or Federal assistance program.
  - 10) Costs of equipment or material procured in violation of any provisions of this Part.
  - 11) Costs of special funds (i.e., industry advancement funds) used to finance existing costs or to finance future costs.





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(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

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1) Heading of the Part: Credit for Reinsurance Ceded2) Code Citation: 50 Ill. Adm. Code 11043) Section Numbers: Proposed Action:

|                 |             |
|-----------------|-------------|
| 1104.10         | New Section |
| 1104.20         | New Section |
| 1104.30         | New Section |
| 1104.40         | New Section |
| 1104.50         | New Section |
| 1104.60         | New Section |
| 1104.70         | New Section |
| 1104.80         | New Section |
| 1104.90         | New Section |
| 1104.100        | New Section |
| 1104.110        | New Section |
| 1104.120        | New Section |
| 1104.APPENDIX A | New Section |

4) Statutory Authority: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code (215 ILCS 5/173, 173.1 and 401).5) A Complete Description of the Subjects and Issues Involved: Part 1104 authorizes domestic insurance companies to receive credit for reserves on ceded risks pursuant to Sections 173 and 173.1 of the Illinois Insurance Code (215 ILCS 5/173 and 173.1).6) Will this proposed Amendment replace emergency rule currently in effect?  
No7) Does this Amendment contain an automatic repeal date? No8) Does this proposed Amendment contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This rule will not necessitate that the Department establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

David Van Lieshout

Mary Meyer

## DEPARTMENT OF INSURANCE

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Assistant Chief Counsel  
Department of Insurance  
Insurance  
320 West Washington (or) 320 West Washington  
Springfield, IL 62767 Springfield, IL  
62767  
(217) 782-2867 (217) 785-8220

Paralegal  
Department of

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rule will not impact small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent regulatory agendas because: The Department is repealing Part 1102; at the same time, the Department is promulgating 1104 to implement recent revisions to Section 173 and 173.1 of the Illinois Insurance Code [215 ILCS 5/173 and 173.1].

The full text of the Proposed Rule begins on the next page:

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER C: REINSURANCE  
PART 1104  
CREDIT FOR REINSURANCE CEDED

## Section

## Purpose

1104.10 Credit for Reinsurance - Reinsurer Licensed in this State  
1104.20 Credit for Reinsurance - Accredited Reinsurers  
1104.30 Credit for Reinsurance - Reinsurers Maintaining Trust Funds  
1104.40 Credit for Reinsurance - Reinsurers Maintaining Trust Funds  
1104.50 Credit for Reinsurance Required by Law  
1104.60 Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer  
1104.70 Trust Agreements Qualified Under Section 1104.60 of this Part  
1104.80 Letters of Credit Qualified Under Section 1104.60 of this Part  
1104.90 Other Security  
1104.100 Reinsurance Contract  
1104.110 Contracts Affected  
1104.120 Severability  
1104.APPENDIX A Form AR-1 Certificate of Assuming Insurer

AUTHORITY: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/173, 173.1 and 401].

SOURCE: Adopted at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 1104.10 Purpose

The purpose of this Part is to set forth procedural requirements which the Director deems necessary to carry out the provisions of Article XI of the Illinois Insurance Code [215 ILCS 5/Art. XI].

## Section 1104.20 Credit for Reinsurance - Reinsurer Licensed in this State

Pursuant to Section 173.1(1)(A) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(A)], the Director shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this State as of the date of the ceding insurer's most recent statutory financial statement.

## Section 1104.30 Credit for Reinsurance - Accredited Reinsurers

a) Pursuant to Section 173.1(1)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(B)], the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this State as of the date of the ceding insurer's



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most recent statutory financial statement. An accredited reinsurer is one which:

- 1) Files a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of its submission to this State's jurisdiction and to this State's authority to examine its books and records; and
  - 2) Files with the Director a certified copy of a letter or a certificate of authority or of compliance as evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state; and
  - 3) Files annually with the Director a copy of its annual financial statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and
  - 4) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000 and whose accreditation has been approved by the Director.
- b) If the Director determines that the assuming insurer has failed to meet or maintain any of these qualifications, the Director may upon written notice and hearing revoke the accreditation.

#### Section 1104.40 Credit for Reinsurance - Reinsurers Maintaining Trust Funds

- a) Pursuant to Section 173.1(1)(C) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(C)], the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of the date of the ceding insurer's most recent statutory financial statement maintains a trust fund in an amount prescribed in subsection (b) below in a qualified United States financial institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(B)], for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Director substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the Director to determine the sufficiency of the trust fund.
- b) The following requirements apply to the following categories of assuming insurer:

- 1) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's gross liabilities attributable to business written in the United States, and in addition, a trustee surplus of not less than \$20,000,000. The assuming insurer shall file a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of

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this Part as evidence of the submission to this State's authority to examine its books and records and shall certify that it will bear the expense of any such examination.

- 2) The trust fund for a group including incorporated and unincorporated individual underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of the submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the Director annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group.

- 3) The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurers' gross liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trustee surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of the submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the Director annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group.

- c) The trust shall be established in a form approved by the Director and complying with Section 173.1(1) of the Illinois Insurance Code [215 ILCS 5/173.1(1)] and this Part. The trust instrument shall provide that:

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- 1) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States.
- 2) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.
- 3) The trust shall be subject to examination as determined by the Director.
- 4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.
- 5) No later than February 28 of each year the trustees of the trust shall report to the Director in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.
- 6) No amendment to the trust shall be effective unless reviewed and approved in advance by the Director.

**Section 1104.50 Credit for Reinsurance Required by Law**

Pursuant to Section 173.1(1)(D) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(D)], the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Sections 173.1(1)(A), (B) or (C) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(A), (B) or (C)] but only with respect to the insurance of risks located in jurisdictions where that reinsurance is required by applicable law or regulation of that jurisdiction. As used in this Section, "jurisdiction" means any state, district or territory of the United States and any lawful national government.

**Section 1104.60 Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer**

Pursuant to Section 173.1(2) of the Illinois Insurance Code [215 ILCS 5/173.1(2)], the Director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 173.1(1) of the Illinois Insurance Code [215 ILCS 5/173.1(1)] in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in the United States subject to withdrawal solely by, and under the

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exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(B)].

- a) This security may be in the form of any of the following:

- 1) Cash.
- 2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets under Article VIII of the Illinois Insurance Code.
- 3) Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in Section 173.1(3)(A) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(A)], effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual financial statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.
- 4) Any other form of security acceptable to the Director.
- b) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to subsection (a)(1), (2) and (3) above shall be allowed only when the requirements of Sections 1104.70, 1104.80 or 1104.90 of this Part are met.

**Section 1104.70 Trust Agreements Qualified Under Section 1104.60 of this Part**

- a) As used in this Section:

- 1) Beneficiary means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).
- 2) Grantor means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.
- 3) Obligations, as used in subsection (b)(1) below, means:
  - A) Reinsured losses and allocated loss adjustment expenses paid by the ceding company, but not recovered from the assuming insurer;
  - B) Reserves for reinsured losses reported and outstanding;
  - C) Reserves for reinsured losses incurred but not reported; and
  - D) Reserves for allocated reinsured loss adjustment expenses

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## b) Required Conditions. and unearned premiums.

- 1) The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(B)].
- 2) The trust agreement shall create a trust account into which assets shall be deposited.
- 3) All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the Director's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this Section. If the Director approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subsection (b)(4)(A) below must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.
- 4) The trust agreement shall provide that:
  - A) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
  - B) No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
  - C) It is not subject to any conditions or qualifications outside of the trust agreement; and
  - D) It shall not contain references to any other agreements or documents except as provided for under subsection (b)(11) below.
- 5) The trust agreement shall be established for the sole benefit of the beneficiary.
- 6) The trust agreement shall require the trustee to:
  - A) Receive assets and hold all assets in a safe place;
  - B) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
  - C) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
  - D) Notify the grantor and the beneficiary, within ten (10) days, of any deposits to or withdrawals from the trust account;

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- 3) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and
- F) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.
- 7) The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.
- 8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.
- 9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.
- 10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.
- 11) Notwithstanding other provisions of this Part, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this Part, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:
  - A) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;
  - B) To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred and two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or
  - C) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days



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- beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.
- d) Additional Conditions Applicable to Reinsurance Agreements.
- 1) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, must contain provisions that:
- A) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;
- B) Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the Illinois Insurance Code or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this subparagraph in lieu of including such provisions in the reinsurance agreement;
- C) Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;
- D) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and
- E) Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:
- prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(B)] apart from its general assets, in trust for such uses and purposes specified in subsections (b)(11)(A) and (B) above as may remain executory after such withdrawal and for any period after the termination date.
- 12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subsection (d)(1)(B) below, so long as these required conditions are included in the trust agreement.
- c) Permitted Conditions.
- 1) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after receipt by the beneficiary and grantor of the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.
- 2) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.
- 3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subsection (d)(1)(B) below.
- 4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.
- 5) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the

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- i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;
- ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;
- iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves; and
- iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

## 2) The reinsurance agreement may also contain provisions that:

- A) Give the assuming insurer the right to seek approval from the ceding insurer (the ceding insurer shall not unreasonably or arbitrarily withhold its approval) to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

- i) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

- ii) After withdrawal and transfer, the market value of the trust account is no less than one hundred and two percent (102%) of the required amount.

## B) Provide for:

- i) The return of any amount withdrawn in excess of the actual amounts required for subsections (d)(1)(E)(i), (ii) and (iii) of this Section, or in the case of subsection (d)(1)(E)(iv), any amounts that are subsequently determined not to be due; and
- ii) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subsection (d)(1)(E)(iii).

## C) Permit the award by any arbitration panel or court of competent jurisdiction of:

- i) Interest at a rate different from that provided in subsection (d)(2)(B)(ii) of this Section;
- ii) Court of arbitration costs;

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- iii) Attorney's fees; and
  - iv) Any other reasonable expenses.
- 3) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this Department in compliance with the provisions of this Part when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.
  - 4) Existing agreements. Notwithstanding the effective date of this Part, any trust agreement or underlying reinsurance agreement in existence prior to January 1, 1996 which complies with Section 173.1 of the Insurance Code [215 ILCS 5/173.1] will continue to be acceptable until January 1, 1997 at which time the agreements will have to be in full compliance with this Part for the trust agreement to be acceptable.
  - 5) The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (a) above shall not be construed to affect any actions or rights which the Director may take or possess pursuant to the provisions of the laws of this State.

## Section 1104.80 Letters of Credit Qualified Under Section 1104.60 of this Part

- a) The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution as defined in Section 173.1(3)(A) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(A)]. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subsection (i)(1) below. As used in this Section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).
- b) The heading of the letter of credit may include a boxed section which

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contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

c) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

d) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days notice prior to the expiration date or nonrenewal.

e) The letter of credit shall state whether it is subject to and governed by the laws of this State or the ICC Uniform Customs and Practice for Documentary Credits (ICC Publication No 500, May 1993), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

f) If the letter of credit is made subject to the ICC Uniform Customs and Practice for Documentary Credits (ICC Publication No 500, May 1993), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 17 of Publication 500 occur.

g) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Section 173.1(3)(A) of the Illinois Insurance Code (215 ILCS 5/173.1(3)(A)).

h) If the letter of credit is issued by a nonqualified financial institution and is confirmed by a qualified United States financial institution as described in subsection (g) above, then the following additional requirements shall be met:

1) The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2) The "evergreen clause" shall provide for not less than 60 days notice of nonrenewal prior to the expiration date.

i) Reinsurance Agreement Provisions.

1) The reinsurance agreement in conjunction with which the letter of credit is obtained must contain provisions which:

A) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.

B) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the

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ceding insurer or its successors in interest only for one or more of the following reasons:

i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves); and

iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

C) All of the foregoing provisions of subsection (i)(1) above should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2) Nothing contained in subsection (i)(1) above shall preclude the ceding insurer and assuming insurer from providing for:

A) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subsection (i)(1)(B)(iii) above; and/or

B) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of subsection (i)(1)(B)(iv) above, any amounts that are subsequently determined not to be due.

3) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of subsection (i)(1)(B) above, require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document.

j) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this Department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement



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which the letter of credit was intended to secure.

**Section 1104.90 Other Security**

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

**Section 1104.100 Reinsurance Contract**

Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of Sections 1104.20, 1104.30, 1104.40 or 1104.60 of this Part or otherwise in compliance with Section 173.1(1) of the Illinois Insurance Code (215 ILCS 5/173.1(1)) after January 1, 1996 unless the reinsurance agreement:

- a) Includes a proper insolvency clause pursuant to Section 173.2 of the Illinois Insurance Code (215 ILCS 5/173.2); and
- b) Includes a provision pursuant to Section 173.1(1)(E) of the Illinois Insurance Code (215 ILCS 5/173.1(1)(E)) whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel.

**Section 1104.110 Contracts Affected**

All new and renewal reinsurance transactions entered into after January 1, 1996 shall conform to the requirements of this Part if credit is to be given to the ceding insurer for such reinsurance.

**Section 1104.120 Severability**

If any provisions of this Part, or their application to any person or circumstance is held invalid, such determination shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to that end the provisions of this Part are separable.

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**Section 1104.APPENDIX A Form AR-1 Certificate of Assuming Insurer**FORM AR-1  
CERTIFICATE OF ASSUMING INSURER

I, \_\_\_\_\_, (name of officer), \_\_\_\_\_ (title of officer)

of \_\_\_\_\_, (name of assuming insurer), the assuming insurer

under a reinsurance agreement(s) with one or more insurers domiciled in Illinois, hereby certify that

\_\_\_\_\_, ("Assuming Insurer"):  
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Illinois for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).
2. Designates the Director of the Illinois Department of Insurance as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.
3. Submits to the authority of the Director of the Illinois Department of Insurance to examine its books and records and agrees to bear the expense of any such examination.
4. Submits with this form a current list of insurers domiciled in Illinois reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Director at least once per calendar quarter.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(name of assuming insurer)

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BY: \_\_\_\_\_

(name of officer)

\_\_\_\_\_  
(title of officer)DEPARTMENT OF INSURANCE  
NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Letters of Credit
- 2) Code Citation: 50 Ill. Adm. Code 1102
- 3) Section Numbers: Proposed Action:
- |         |          |
|---------|----------|
| 1102.10 | Repealed |
| 1102.20 | Repealed |
| 1102.30 | Repealed |
| 1102.40 | Repealed |
| 1102.50 | Repealed |
| 1102.60 | Repealed |
- 4) Statutory Authority: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/173, 173.1 and 401].
- 5) A Complete Description of the Subjects and Issues Involved: Part 1102 is being repealed and replaced by Part 1104 which authorizes domestic insurance companies to receive credit for reserves on ceded risks pursuant to Sections 173 and 173.1 of the Illinois Insurance Code [215 ILCS 5/173 and 173.1].
- 6) Will this proposed Repealer replace emergency rule currently in effect? No
- 7) Does this Repealer contain an automatic repeal date? No
- 8) Does this proposed Repealer contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:
- |                            |                            |
|----------------------------|----------------------------|
| Denise Fuchs               | Mary Meyer                 |
| Rules Unit Supervisor      | Paralegal                  |
| Department of Insurance    | Department of Insurance    |
| 320 West Washington        | 320 West Washington        |
| (or)                       | (or)                       |
| Springfield, IL 62767-0001 | Springfield, IL 62767-0001 |
| (217) 785-8560             | (217) 785-0505             |
- 12) Initial Regulatory Flexibility Analysis: This repealer will not affect

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small businesses.

- 13) This rule was not included on either of the 2 most recent agendas because: This Part is being repealed and replaced with Part 1104 which implements Sections 173 and 173.1 of the Illinois Insurance Code [215 ILCS 5/173 and 173.1] (see this *Illinois Register* for the First Notice proposal of Part 1104).

The full text of the Proposed Repealer begins on the next page:

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## NOTICE OF PROPOSED REPEALER

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER O: REINSURANCE

PART 1102  
LETTERS OF CREDIT REPEALED

| Section | Purpose and Scope                                 |
|---------|---|
| 1102.10 | Definitions                                       |
| 1102.20 | Minimum Requirements for Letters of Credit        |
| 1102.30 | Application and Maintenance of a Letter of Credit |
| 1102.40 | Nonrenewal of Letters of Credit                   |
| 1102.50 | Severability                                      |
| 1102.60 |   |

AUTHORITY: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 785, 785.1 and 1013).

SOURCE: Adopted at 12 Ill. Reg. 18151, effective December 31, 1988; repealed at 19 Ill. Reg. \_\_\_\_\_, effective January 1, 1996.

## Section 1102.10 Purpose and Scope

The purpose of this Part is to implement Sections 173 and 173.1 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 785 and 785.1) which authorize domestic insurance companies to receive credit for reserves on reinsured risks ceded to foreign or alien reinsurance companies that are not authorized to transact business in this State to the extent such reserves are secured by an unconditional and irrevocable letter of credit. This Part establishes minimum standards for these letters of credit. This Part shall apply to all domestic insurance companies and all health maintenance organizations authorized to transact business in this State.

## Section 1102.20 Definitions

- a) An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.
- b) A "clean letter of credit" means a letter of credit that provides that the beneficiary thereof need only present a sight draft on the letter of credit without any further documentation to the issuing or confirming bank to obtain funds.
- c) A bank that "confirms" a letter of credit becomes directly obligated on the letter of credit to the extent of its confirmation as though it was the issuing bank and assumes the rights and obligations of the issuing bank.



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- d) "Control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause direction of the management and policies of a person, whether through the ownership of voting securities, the holding of shareholders' proxies by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is solely the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds shareholders' proxies representing 10% or more of the voting securities of any other person.

## Section 1102.30 Minimum Requirements for Letters of Credit

- a) Only letters of credit that fully comply with this Section may be utilized to qualify for reserve credit under a reinsurance agreement pursuant to Section 173.1 of the Illinois Insurance Code.
- b) The letter of credit must be issued by a member bank of the Federal Reserve System. The issuing bank must not be affiliated with the applicant for the letter of credit.
- c) The beneficiary of the letter of credit must be the ceding insurance company which is seeking to take reserve credit under the reinsurance agreement for reserves secured by the letter of credit. The letter of credit shall not name more than one beneficiary. Separate letters of credit must be provided for each beneficiary.
- d) The identity of the applicant and reinsurer shall be shown on the letter of credit and shall be clearly marked to indicate that such information is for internal identification purposes only and does not affect the terms of the letter of credit or the bank's obligation thereunder.
- e) The letter of credit must be "clean," irrevocable and unconditional and comply with the following:
- 1) The letter of credit must expressly state that it is clean, irrevocable and unconditional and that it cannot be modified or revoked without the express consent of the issuing or confirming bank and the beneficiary, once the beneficiary has been established; and
  - 2) The letter of credit must be unconditional requiring no documentation whatsoever in that it shall vest in the beneficiary an unconditional right to recover thereon; the beneficiary must be able to realize funds simply by drawing a draft under the letter of credit, limited only by the amount available as set forth in the letter of credit. The letter of credit must specifically state that it is not subject to any conditions or qualifications outside of the letter of credit.
- f) The letter of credit must be for an original term of not less than one year and must expressly state the effective and expiration date of that term. The letter of credit must provide that it shall be

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automatically renewed for the period of time of the original term of the letter of credit, unless not less than thirty (30) days prior to the expiration date the beneficiary has received written notice from the issuing bank of its intent not to renew the letter of credit.

- g) The letter of credit must state that there are no additional documents imposing requirements which state that the obligation of the issuing or confirming bank is contingent upon any reimbursement with respect thereto.
- h) If the letter of credit is made subject to the Uniform Customs and Practice of Documentary Credits of the International Chamber of Commerce (Publication 400, 1983 Revision), it must specifically provide for an extension of time to enable the beneficiary to draw against the letter of credit in the event that any of the occurrences set forth in Article 19 of Publication 400 take place.
- i) A letter of credit confirmed by a member bank of the Federal Reserve System shall be deemed to have been issued by the confirming bank provided:
- 1) The bank that is the direct issuer of the letter of credit designates in writing the confirming bank as its agent for receipt and payment of drafts on the letter of credit; and
  - 2) the minimum period of time for notice of nonrenewal prior to the expiration date of the letter of credit shall be not less than sixty (60) days; and
  - 3) the letter of credit must provide that all drafts for payment therefrom must be presentable at a United States office of the confirming bank.

## Section 1102.40 Application and Maintenance of a Letter of Credit

- a) A letter of credit shall not be used to reduce any liability for reinsurance ceded to an unauthorized insurance company in financial statements filed with the Department of Insurance unless the letter of credit complies with the requirements of this Part and has been issued on or before the "as of" date of the financial statement. Any such reduction of liability may be up to the amount available under the letter of credit but in no event shall it exceed the specific obligation under the reinsurance agreement which is secured by the letter of credit.
- b) All letters of credit and amendments thereto shall be readily available for inspection by Departmental examiners pursuant to Section 132 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 744).
- c) Any new or renewal letters of credit shall comply with the requirements of this Part and the Illinois Insurance Code.

## Section 1102.50 Nonrenewal of Letters of Credit

When a letter of credit is utilized for reinsurance reserve credit, the

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reinsurance agreement shall provide that in the event of nonrenewal of the letter of credit, the ceding insurer may withdraw the balance of the letter of credit. Any such fund withdrawn shall be placed in trust to secure the continuing obligations under the reinsurance contract until a renewal letter of credit or a substitution thereof, has been received by the ceding insurer in compliance with the provisions of this Part and the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 613 et seq.).

**Section 1102.60 Severability**

If any provision of this Part or an application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the other provisions or applications of this Part which can be given effect without the invalid provision or application shall not be thereby affected, and to this extent the provisions of this Part are severable.

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- 1) Heading of the Part: Aid to Families with Dependent Children
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Number: Proposed Action:  
112.65 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ICS 5/12-13] and Public Act 89-6.
- 5) Complete Description of the Subjects and Issues Involved: Pursuant to provisions of Public Act 89-6, these proposed amendments enable the Department to require all applicants and recipients to prepare a personal employability plan as a condition of eligibility. This rulemaking also outlines the Department's requirement to advise clients of the value and benefits of employment and of the need for all recipients to move toward self-sufficiency.  
  
Within six months of implementation, all current recipients and all applicants at the time of approval will be required to complete a personal plan for achieving employment as a condition of eligibility. Clients will be required to think about and begin formulating a plan for finding work. Clients will record their education level and work history and assess their strengths and weaknesses on a special form being developed by Department staff. The employability plan will help recipients establish goals and will help Department staff stress the point that all clients should be preparing for work and taking steps to become self-sufficient. If a client does not complete the employability plan, the entire case will be ineligible.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

| Sections | Proposed Action | Illinois Register Citation           |
|----------|-----------------|--------------------------------------|
| 112.8    | Amendment       | July 14, 1995 (19 Ill. Reg. 9376)    |
| 112.71   | Amendment       | August 18, 1995 (19 Ill. Reg. 11773) |
| 112.73   | Amendment       | August 18, 1995 (19 Ill. Reg. 11773) |
| 112.251  | Amendment       | July 21, 1995 (19 Ill. Reg. 10363)   |
| 112.252  | Amendment       | July 21, 1995 (19 Ill. Reg. 10363)   |
| 112.253  | Amendment       | July 21, 1995 (19 Ill. Reg. 10363)   |

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- 112.254 Amendment July 21, 1995 (19 Ill. Reg. 10363)  
 112.300 Amendment July 14, 1995 (19 Ill. Reg. 9376)  
 112.306 Amendment July 14, 1995 (19 Ill. Reg. 9376)  
 112.308 Amendment July 14, 1995 (19 Ill. Reg. 9376)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this Proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunna  
 Bureau of Rules and Regulations  
 Illinois Department of Public Aid  
 100 South Grand Ave. E., 3rd Floor  
 Springfield, Illinois 62762  
 (Phone: (217) 524-3215)

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the First Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
 CHAPTER I: DEPARTMENT OF PUBLIC AID  
 SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 112

## AID TO FAMILIES WITH DEPENDENT CHILDREN

## SUBPART A: GENERAL PROVISIONS

| Section |                                       |
|---------|---------------------------------------|
| 112.1   | Description of the Assistance Program |
| 112.5   | Incorporation by Reference            |

## SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

| Section |   |
|---------|---|
| 112.8   | Caretaker Relative  |
| 112.9   | Client Cooperation  |
| 112.10  | Citizenship   |
| 112.20  | Residence   |
| 112.30  | Age   |
| 112.40  | Relationship  |
| 112.50  | Living Arrangement  |
| 112.52  | Social Security Numbers                                       |
| 112.54  | Assignment of Medical Support Rights                          |
| 112.60  | Lack of Parental Support or Care                              |
| 112.61  | Death of a Parent   |
| 112.62  | Incapacity of a Parent  |
| 112.63  | Continued Absence of a Parent                                 |
| 112.64  | Unemployment of the Parent                                    |
| 112.65  | Employment Plan   |
| 112.67  | Restriction in Payment to Households Headed by a Minor Parent |

## SUBPART C: JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

| Section |   |
|---------|---|
| 112.70  | Participation Requirements for JOBS   |
| 112.71  | Individuals Exempt from JOBS  |
| 112.72  | JOBS Participation/Cooperation Requirements                                       |
| 112.73  | Failure to Participate with the Work Incentive Demonstration Program (Renumbered) |
| 112.74  | JOBS Initial Assessment Process/Development of an Employability Plan              |
| 112.76  | JOBS Orientation  |
| 112.77  | Conciliation and Fair Hearings  |
| 112.78  | JOBS Components   |
| 112.79  | JOBS Sanctions  |
| 112.80  | Good Cause for Failure to Comply with JOBS Participation Requirements             |
| 112.91  | Responsible Relative Eligibility For JOBS   |
| 112.92  | JOBS Supportive Services  |



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|                            |  |
|----------------------------|--|
| 112.83                     | Young Parents Program  |
| 112.84                     | Work Experience Evaluation Project   |
| 112.85                     | Four Year College/Vocational Training Demonstration Project                                      |
| SUBPART E: PROJECT ADVANCE |  |
| Section                    |  |
| 112.86                     | Project Advance  |
| 112.87                     | Project Advance Experimental and Control Groups  |
| 112.88                     | Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers |
| 112.89                     | Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers   |
| 112.90                     | Project Advance Sanctions  |
| 112.91                     | Good Cause for Failure to Comply with Project Advance  |
| 112.93                     | Individuals Exempt From Project Advance  |
| 112.95                     | Project Advance Supportive Services  |

## SUBPART F: EXCHANGE PROGRAM

Section  
112.98

## Exchange Program

## SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

|         |   |  |  |  |  |
|---------|---|--|--|--|--|
| Section |   |  |  |  |  |
| 112.100 | Unearned Income   |  |  |  |  |
| 112.101 | Unearned Income of Stepparent or Parent   |  |  |  |  |
| 112.105 | Budgeting Unearned Income   |  |  |  |  |
| 112.106 | Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision |  |  |  |  |
| 112.107 | Initial Receipt of Unearned Income  |  |  |  |  |
| 112.108 | Termination of Unearned Income  |  |  |  |  |
| 112.110 | Exempt Unearned Income  |  |  |  |  |
| 112.115 | Education Benefits  |  |  |  |  |
| 112.120 | Incentive Allowances  |  |  |  |  |
| 112.125 | Unearned Income In-Kind   |  |  |  |  |
| 112.126 | Earmarked Income  |  |  |  |  |
| 112.127 | Lump Sum Payments   |  |  |  |  |
| 112.128 | Protected Income  |  |  |  |  |
| 112.130 | Earned Income   |  |  |  |  |
| 112.131 | Earned Income Tax Credit  |  |  |  |  |
| 112.132 | Budgeting Earned Income   |  |  |  |  |
| 112.133 | Budgeting Earned Income of Applicants Employed On Date of Application And/Or Date Of Decision   |  |  |  |  |
| 112.134 | Initial Employment  |  |  |  |  |
| 112.135 | Budgeting Earned Income For Contractual Employees   |  |  |  |  |
| 112.136 | Budgeting Earned Income For Non-Contractual School Employees                                    |  |  |  |  |
| 112.147 | Termination of Employment   |  |  |  |  |

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|         |   |
|---------|---|
| 112.138 | Transitional Payments   |
| 112.140 | Exempt Earned Income  |
| 112.141 | Earned Income Exemption   |
| 112.142 | Exclusion From Earned Income Exemption                                |
| 112.143 | Recognized Employment Expenses  |
| 112.144 | Income From Work/Study/Training Program                               |
| 112.145 | Earned Income From Self-Employment                                    |
| 112.146 | Earned Income From Roomer and Boarder                                 |
| 112.147 | Income From Rental Property   |
| 112.148 | Payments from the Illinois Department of Children and Family Services |
| 112.149 | Earned Income In-Kind   |
| 112.150 | Assets  |
| 112.151 | Exempt Assets   |
| 112.152 | Asset Disregards  |
| 112.153 | Deferral of Consideration of Assets                                   |
| 112.154 | Property Transfers  |
| 112.155 | AFDC Income Limit   |

## SUBPART H: PAYMENT AMOUNTS

Section  
112.250  
112.251  
112.252  
112.253  
112.254

## Grant Levels

Payment Levels in AFDC  
Payment Levels in AFDC Group I Counties  
Payment Levels in AFDC Group II Counties  
Payment Levels in AFDC Group III Counties

## SUBPART I: OTHER PROVISIONS

Section

112.300 Persons Who May Be Included in the Assistance Unit  
112.301 Presumptive Eligibility  
112.302 Monthly Reporting  
112.303 Retrospective Budgeting  
112.304 Budgeting Schedule  
112.305 Strikers  
112.306 Foster Care Program  
112.307 Responsibility of Sponsors of Aliens  
112.308 Special Needs Authorizations  
112.309 Institutional Status  
112.315 Young Parent Program (Renumbered)  
112.320 Redetermination of Eligibility  
112.330 Twelve Month Extension of Medical Assistance Due to Increased Income from Employment  
112.331 Four Month Extension of Medical Assistance Due to Child Support Collections  
112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)

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112.340 New Start Payments to Individuals Released from Department of Corrections Facilities

SUBPART J: CHILD CARE

Section  
112.350 Child Care  
112.352 Child Care Eligibility  
112.354 Qualified Provider  
112.356 Notification of Available Services  
112.358 Participant Rights and Responsibilities  
112.362 Additional Service to Secure or Maintain Child Care Arrangements  
112.364 Rates of Payment for Child Care  
112.366 Method of Providing Child Care  
112.370 Non-JOBS Education and Training Program

SUBPART K: TRANSITIONAL CHILD CARE

Section  
112.400 Transitional Child Care Eligibility  
112.404 Duration of Eligibility for Transitional Child Care  
112.406 Loss of Eligibility for Transitional Child Care  
112.408 Qualified Child Care Providers  
112.410 Notification of Available Services  
112.412 Participant Rights and Responsibilities  
112.414 Child Care Overpayments and Recoveries  
112.416 Fees for Service for Transitional Child Care  
112.418 Rates of Payment for Transitional Child Care

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979, peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4

Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894;

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peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19883, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984 for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 3, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9977, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 5, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172,

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16006, effective October 6, 1989; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13562, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

## Section 112.65 Employment Plan



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

a) The Department shall advise every applicant and recipient of:

1) the requirement that all recipients move toward self-sufficiency; and

2) the value and benefits of employment.

b) As a condition of eligibility, all applicants must prepare and submit a personal plan for achieving employment. All active recipients who have not previously prepared and submitted a personal plan for achieving employment must do so.

c) This Section is subject to the approval of the appropriate federal waiver.

d) This Section applies to all AFDC applicants and recipients except for those designated as control cases in the Cook County Auburn Park Local Office.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Number: Proposed Action:

140.16 Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: The Department of Public Aid is proposing amendments concerning the suspension of eligibility to participate in the Medical Assistance Program when a provider is not in compliance with State income tax requirements, child support requirements of Article X of the Public Aid Code, or the repayment of educational loans guaranteed by the Illinois State Scholarship Commission. Under the proposed amendments, a provider may prevent such suspension of eligibility by payment of past-due amounts in full or by entering into payment arrangements acceptable to the appropriate State agency.

The proposed changes in Section 140.16 correspond to similar changes being proposed to 89 Ill. Adm. Code 104.221, which address administrative hearings that are initiated in response to situations as described above. The authority for both rulemakings is contained in Public Act 88-554 and Section 5-16.6 of the Public Aid Code [305 ILCS 5/5-16.6]. These proposed amendments are not expected to result in any changes in Department expenditures.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

| Sections | Proposed Action | Illinois Register Citation           |
|----------|-----------------|--------------------------------------|
| 140.3    | Amendment       | June 23, 1995 (19 Ill. Reg. 8066)    |
| 140.5    | Amendment       | June 23, 1995 (19 Ill. Reg. 8066)    |
| 140.7    | Amendment       | August 25, 1995 (19 Ill. Reg. 12210) |
| 140.9    | Amendment       | August 25, 1995 (19 Ill. Reg. 12210) |
| 140.80   | Amendment       | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.82   | Amendment       | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.84   | Amendment       | July 7, 1995 (19 Ill. Reg. 8938)     |

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

|         |           |                                    |
|---------|-----------|------------------------------------|
| 140.440 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)   |
| 140.443 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)   |
| 140.444 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)   |
| 140.445 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)   |
| 140.446 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)   |
| 140.447 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)   |
| 140.461 | Amendment | June 16, 1995 (19 Ill. Reg. 7806)  |
| 140.500 | Amendment | July 14, 1995 (19 Ill. Reg. 9386)  |
| 140.504 | Amendment | July 14, 1995 (19 Ill. Reg. 9386)  |
| 140.505 | Repeal    | July 14, 1995 (19 Ill. Reg. 9386)  |
| 140.535 | Amendment | July 21, 1995 (19 Ill. Reg. 10390) |
| 140.642 | Amendment | April 14, 1995 (19 Ill. Reg. 5397) |

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Ave. E., 3rd Floor  
Springfield, IL 62762  
(217) 524-3215

The Department requests the submission of written contents within 30 days after the publication of this notice. The Department will consider all written comments it receives during the First Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not for profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

a) Types of small businesses, small municipalities and not for profit

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- corporations affected: Providers in the Medical Assistance Program
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1995
- The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMSPART 140  
MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

Incorporation By Reference  
Medical Assistance Programs  
Covered Services Under the Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify As Mandatory Categorically Needy and Disabled Persons Under Age 21 Who May Qualify for Medicaid and In-Home Care (Model Waiver) Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)  
Covered Medical Services Under GA  
Medical Services Not Covered  
Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight  
Medical Assistance For Qualified Severely Impaired Individuals  
Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy  
Medical Assistance Provided to Incarcerated Persons

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

Enrollment Conditions for Medical Providers  
Participation Requirements for Medical Providers  
Definitions  
Denial of Application to Participate in the Medical Assistance Program  
Recovery of Money  
Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program  
Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program  
Effect of Termination on Individuals Associated with Vendor  
Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring  
Submission of Claims  
Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Magnetic Tape Billings  
Payment of Claims  
Payment Procedures  
Overpayment or Underpayment of Claims  
Payment to Factors Prohibited  
Assignment of Vendor Payments  
Record Requirements for Medical Providers  
Audits  
Emergency Services Audits  
Prohibition on Participation, and Special Permission for Participation  
Publication of List of Terminated, Suspended or Barred Entities  
False Reporting and Other Fraudulent Activities  
Prior Approval for Medical Services or Items  
Prior Approval in Cases of Emergency  
Limitation on Prior Approval  
Post Approval for Items or Services When Prior Approval Cannot Be Obtained  
Reimbursement for Medical Services Through the Use of a C-13 Invoice  
Voucher Advance Payment and Expedited Payments  
Drug Manual (Recodified)  
Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Hospital Provider Fund  
Developmentally Disabled Care Provider Fund  
Long Term Care Provider Fund  
Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund  
Hospital Services Trust Fund  
General Requirements (Recodified)  
Special Requirements (Recodified)  
Covered Hospital Services (Recodified)  
Hospital Services Not Covered (Recodified)  
Limitation on Hospital Services (Recodified)  
Transplants (Recodified)  
Heart Transplants (Recodified)  
Liver Transplants (Recodified)  
Bone Marrow Transplants (Recodified)  
Disproportionate Share Hospital Adjustments (Recodified)  
Payment for Inpatient Services for GA (Recodified)  
Hospital Outpatient and Clinic Services (Recodified)  
Payment for Hospital Services During Fiscal Year 1982 (Recodified)  
Payment for Hospital Services After June 30, 1982 (Repealed)  
Payment for Hospital Services During Fiscal Year 1983 (Recodified)  
Limits on Length of Stay by Diagnosis (Recodified)



## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)

140.350 Copayments (Recodified)

140.360 Payment Methodology (Recodified)

140.361 Non-Participating Hospitals (Recodified)

140.362 Pre July 1, 1989 Services (Recodified)

140.363 Post June 30, 1989 Services (Recodified)

140.364 Prepayment Review (Recodified)

140.365 Base Year Costs (Recodified)

140.366 Restructuring Adjustment (Recodified)

140.367 Inflation Adjustment (Recodified)

140.368 Volume Adjustment (Repealed)

140.369 Groupings (Recodified)

140.370 Rate Calculation (Recodified)

140.371 Payment (Recodified)

140.372 Review Procedure (Recodified)

140.373 Utilization (Repealed)

140.374 Alternatives (Recodified)

140.375 Exemptions (Recodified)

140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)

140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)

140.391 Definitions (Recodified)

140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)

140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)

140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)

140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

140.400 Payment to Practitioners, Nurses and Laboratories

140.410 Physicians' Services

140.411 Covered Services By Physicians

140.412 Services Not Covered By Physicians

140.413 Limitation on Physician Services

140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians

140.416 Optometric Services and Materials

140.417 Limitations on Optometric Services

140.418 Department of Corrections Laboratory

140.420 Dental Services

140.421 Limitations on Dental Services

140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists

140.425 Podiatry Services

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.426 Limitations on Podiatry Services

140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry

140.428 Chiropractic Services

140.429 Limitations on Chiropractic Services (Repealed)

140.430 Independent Laboratory Services

140.431 Services Not Covered by Independent Laboratory

140.432 Limitations on Independent Laboratory Services

140.433 Payment for Laboratory Services

140.434 Record Requirements for Independent Laboratories

140.435 Nurse Services

140.436 Limitations on Nurse Services

140.440 Pharmacy Services

140.441 Pharmacy Services Not Covered

140.442 Prior Approval of Prescriptions

140.443 Filling of Prescriptions

140.444 Compounded Prescriptions

140.445 Prescription Items (Not Compounded)

140.446 Over-the-Counter Items

140.447 Reimbursement

140.448 Returned Pharmacy Items

140.449 Payment of Pharmacy Items

140.450 Record Requirements for Pharmacies

140.452 Mental Health Clinic Services

140.453 Definitions

140.454 Types of Mental Health Clinic Services

140.455 Payment for Mental Health Clinic Services

140.456 Hearings

140.457 Therapy Services

140.458 Prior Approval for Therapy Services

140.459 Payment for Therapy Services

140.460 Clinic Services

140.461 Clinic Participation, Data and Certification Requirements

140.462 Covered Services in Clinics

140.463 Clinic Service Payment

140.464 Healthy Moms/Healthy Kids Managed Care Clinics

140.465 Speech and Hearing Clinics (Repealed)

140.466 Rural Health Clinics

140.467 Independent Clinics

140.469 Hospice

140.470 Home Health Services

140.471 Home Health Covered Services

140.472 Types of Home Health Services

140.473 Prior Approval for Home Health Services

140.474 Payment for Home Health Services

140.475 Medical Equipment, Supplies and Prosthetic Devices

140.476 Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.477 Limitations on Equipment, Supplies and Prosthetic Devices  
 140.478 Prior Approval for Medical Equipment, Supplies and Prosthetic Devices  
 140.479 Limitations, Medical Supplies  
 140.480 Equipment Rental Limitations  
 140.481 Payment for Medical Equipment, Supplies and Prosthetic Devices  
 140.482 Family Planning Services  
 140.483 Limitations on Family Planning Services  
 140.484 Payment for Family Planning Services  
 140.485 Healthy Kids Program  
 140.486 Limitations on Medichex Services (Repealed)  
 140.487 Healthy Kids Program Timeliness Standards  
 140.488 Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures  
 140.490 Medical Transportation  
 140.491 Limitations on Medical Transportation  
 140.492 Payment for Medical Transportation  
 140.495 Psychological Services  
 140.496 Payment for Psychological Services  
 140.497 Hearing Aids

## SUBPART E: GROUP CARE

## Section

140.500 Group Care Services  
 140.502 Cessation of Payment at Federal Direction  
 140.503 Cessation of Payment for Improper Level of Care  
 140.504 Cessation of Payment Because of Termination of Facility  
 140.505 Continuation of Payment Because of Threat To Life  
 140.506 Provider Voluntary Withdrawal  
 140.507 Continuation of Provider Agreement  
 140.510 Determination of Need for Group Care  
 140.511 Long Term Care Services Covered by Department Payment  
 140.512 Utilization Control  
 140.513 Utilization Review Plan (Repealed)  
 140.514 Certifications and Recertifications of Care  
 140.515 Management of Recipient Funds--Personal Allowance Funds  
 140.516 Recipient Management of Funds  
 140.517 Correspondent Management of Funds  
 140.518 Facility Management of Funds  
 140.519 Use or Accumulation of Funds  
 140.520 Management of Recipient Funds--Local Office Responsibility  
 140.521 Room and Board Accounts  
 140.522 Reconciliation of Recipient Funds  
 140.523 Bed Reserves  
 140.524 Cessation of Payment Due to Loss of License  
 140.525 Quality Incentive Program (QUIP) Payment Levels  
 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

140.527 Quality Incentive Survey (Repealed)  
 140.528 Payment of Quality Incentive (Repealed)  
 140.529 Reviews (Repealed)  
 140.530 Basis of Payment for Long Term Care Services  
 140.531 General Service Costs  
 140.532 Health Care Costs  
 140.533 General Administration Costs  
 140.534 Ownership Costs  
 140.535 Costs for Interest, Taxes and Rent  
 140.536 Organization and Pre-Operating Costs  
 140.537 Payments to Related Organizations  
 140.538 Special Costs  
 140.539 Nurse's Aide Training and Testing  
 140.540 Costs Associated With Nursing Home Care Reform Act and Implementing Regulations  
 140.541 Salaries Paid to Owners or Related Parties  
 140.542 Cost Reports-Filing Requirements  
 140.543 Time Standards for Filing Cost Reports  
 140.544 Access to Cost Reports (Repealed)  
 140.545 Penalty for Failure to File Cost Reports  
 140.550 Update of Operating Costs  
 140.551 General Service Costs  
 140.552 Nursing and Program Costs  
 140.553 General Administrative Costs  
 140.554 Component Inflation Index  
 140.555 Minimum Wage  
 140.560 Components of the Base Rate Determination  
 140.561 Support Costs Components  
 140.562 Nursing Costs  
 140.563 Capital Costs  
 140.565 Koshier Kitchen Reimbursement  
 140.566 Out-of-State Placement  
 140.567 Level II Incentive Payments (Repealed)  
 140.568 Duration of Incentive Payments (Repealed)  
 140.569 Clients With Exceptional Care Needs  
 140.570 Capital Rate Component Determination  
 140.571 Capital Rate Calculation  
 140.572 Total Capital Rate  
 140.573 Other Capital Provisions  
 140.574 Capital Rates for Rented Facilities  
 140.575 Newly Constructed Facilities (Repealed)  
 140.576 Renovations (Repealed)  
 140.577 Capital Costs for Rented Facilities (Renumbered)  
 140.578 Property Taxes  
 140.579 Specialized Living Centers  
 140.580 Mandated Capital Improvements (Repealed)  
 140.581 Qualifying as Mandated Capital Improvement (Repealed)  
 140.582 Cost Adjustments

## DEPARTMENT OF PUBLIC AID

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140.583 Campus Facilities  
140.584 Illinois Municipal Retirement Fund (IMRF)  
140.590 Audit and Record Requirements  
140.642 Screening Assessment for Long Term Care and Alternative Residential Settings and Services  
140.643 In-Home Care Program  
140.645 Medical and In-Home Care For Disabled Persons Under Age 21 (Model Waiver)  
140.646 Reimbursement for Developmental Training (DT) Services for Individuals with Developmental Disabilities Who Reside in Long Term Care (ICF AND SNF) and Residential (ICF/MR) Facilities  
140.647 Description of Developmental Training (DT) Services  
140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs  
140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs  
140.650 Certification of Developmental Training (DT) Programs  
140.651 Decertification of Day Programs  
140.652 Terms of Assurances and Contracts  
140.680 Effective Date Of Payment Rate  
140.700 Discharge of Long Term Care Residents  
140.830 Appeals of Rate Determinations  
140.935 Determination of Cap on Payments for Long Term Care (Repealed)

## SUBPART F: MEDICAID PARTNERSHIP PROGRAM

Section  
140.850 General Description  
140.855 Definition of Terms  
140.860 Covered Services  
140.865 Sponsor Qualifications  
140.870 Sponsor Responsibilities  
140.875 Department Responsibilities  
140.880 Provider Qualifications  
140.885 Provider Responsibilities  
140.890 Payment Methodology  
140.895 Contract Monitoring  
140.896 Reimbursement For Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Recodified)

## SUBPART G: HEALTHY MOMS/HEALTHY KIDS PROGRAM

Section  
140.940 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)  
140.945 Functional Areas of Needs (Recodified)  
140.950 Screening for Abuse (Recodified)

## DEPARTMENT OF PUBLIC AID

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140.903 Definitions (Recodified)  
140.904 Times and Staff Levels (Repealed)  
140.905 Statewide Rates (Repealed)  
140.906 Reconsiderations (Recodified)  
140.907 Midnight Census Report (Recodified)  
140.908 Times and Staff Levels (Recodified)  
140.909 Statewide Rates (Recodified)  
140.910 Referrals (Recodified)  
140.911 Basic Rehabilitation Aide Training Program (Recodified)  
140.912 Interim Nursing Rates (Recodified)  
140.920 General Description  
140.922 Covered Services  
140.924 Provider Participation Requirements  
140.926 Client Eligibility  
140.928 Client Enrollment and Program Components  
140.930 Reimbursement  
140.932 Payment Authorization for Referrals

## SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section  
140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)  
140.942 Definition of Terms (Recodified)  
140.944 Notification of Negotiations (Recodified)  
140.946 Hospital Participation in ICARE Program Negotiations (Recodified)  
140.948 Negotiation Procedures (Recodified)  
140.950 Factors Considered in Awarding ICARE Contracts (Recodified)  
140.952 Closing an ICARE Area (Recodified)  
140.954 Administrative Review (Recodified)  
140.956 Payments to Contracting Hospitals (Recodified)  
140.958 Admitting and Clinical Privileges (Recodified)  
140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)  
140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)  
140.964 Contract Monitoring (Recodified)  
140.966 Transfer of Recipients (Recodified)  
140.968 Validity of Contracts (Recodified)  
140.970 Termination of ICARE Contracts (Recodified)  
140.972 Hospital Services Procurement Advisory Board (Recodified)

## TABLE A: Medichex Recommended Screening Procedures (Repealed)

## TABLE B: Health Service Areas

## TABLE C: Capital Cost Areas

## TABLE D: Schedule of Dental Procedures

## TABLE E: Time Limits for Processing of Prior Approval Requests



## DEPARTMENT OF PUBLIC AID

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|         |   |
|---------|---|
| TABLE F | Podiatry Service Schedule                                       |
| TABLE G | Travel Distance Standards                                       |
| TABLE H | Areas of Major Life Activity                                    |
| TABLE I | Staff Time and Allocation for Training Programs (Recodified)    |
| TABLE J | HSA Grouping (Repealed)   |
| TABLE K | Services Qualifying for 10% Add-On                              |
| TABLE L | Services Qualifying for 10% Add-On to Surgical Incentive Add-On |
| TABLE M | Enhanced Rates for Healthy Moms/Healthy Kids Provider Services  |

**AUTHORITY:** Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI, VII, and 12-13].

**SOURCE:** Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 881, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective June 1, 1984; maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 2721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14584, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.912 and 140.912 Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.205 and 147.205 Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 27, 1988; amended

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## NOTICE OF PROPOSED AMENDMENTS

at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective

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October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 8972, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18611, effective



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amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

### Section 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

a) The Department may terminate or suspend a vendor's eligibility to participate in the Medical Assistance Program, or terminate or not renew a vendor's provider agreement, when it determines that, at any time:

- 1) Such vendor is not complying with the Department's policy or rules, or with the terms and conditions prescribed by the Department in any vendor agreement developed as a result of negotiations with the vendor category, or with the covenants contained in certifications bearing the vendor's signature on claims submitted to the Department by the vendor, or with restrictions on participation imposed pursuant to Section 140.32(f);
- 2) Such vendor is not properly licensed or qualified, or such vendor's professional license, certificate or other authorization has not been renewed or has been revoked, suspended or otherwise terminated as determined by the appropriate licensing, certifying or authorizing agency;
- 3) Violates records requirements
  - A) Such vendor has failed to keep or make available for inspection, audit or copying (including photocopying), after receiving a written request from the Department,
    - i) such records as are required to be maintained by the Department or as are necessary to fully disclose the

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

extent of the services or supplies provided; or  
 ii) such records as are required to be maintained by the Department regarding payments claimed for providing services.

- B) This Section does not require vendors to make available medical records of patients for whom services are not reimbursed under the Illinois Public Aid Code;
- 4) Such vendor has failed to furnish any information requested by the Department regarding payments for providing goods or services, or has failed to furnish all information required by the Department in connection with the rendering of services or supplies to recipients of public assistance by the vendor, his agent, employer or employee;
- 5) Such vendor has knowingly made, or caused to be made, any false statement or representation of a material fact in connection with the administration of the Medical Assistance Program. For purposes of this Section, statements or representations made "knowingly" shall include statements or representations made with actual knowledge that they were false as well as those statements made when the individual making the statement had knowledge of such facts or information as would cause one to be aware that the statements or representations were false when made;
- 6) Such vendor has submitted claims for services or supplies which were not rendered or delivered by that vendor;
- 7) Such vendor has furnished goods or services to a recipient which, when based upon competent medical judgment and evaluation, are determined to be:
  - A) in excess of the recipient's needs,
  - B) harmful to the recipient (for the purpose of this Section, "harmful" goods or services caused actual harm to a recipient or placed a recipient at risk of harm, or of adverse side effects which outweigh the medical benefits sought to be provided), or
  - C) of grossly inferior quality;
- 8) Such vendor knew or should have known that a person with management responsibility for a vendor; an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an investor in the vendor; a technical or other advisor of the vendor; an owner of a sole proprietorship which is a vendor; or a partner in a partnership which is a vendor was previously terminated or barred from participation in the Medical Assistance Program;
- 9) Engaged in practices prohibited by Federal or State law or regulation
  - A) Such vendor, a person with management responsibility for a vendor; an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of



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ownership in a corporate vendor; an owner of a sole proprietorship which is a vendor, or a partner in a partnership which is a vendor, either:

- i) has engaged in practices prohibited by applicable Federal or State law or regulation; or
- ii) was a person with management responsibility for a vendor at the time that such vendor engaged in practices prohibited by applicable Federal or State law or regulation; or
- iii) was an officer, or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a vendor at the time such vendor engaged in practices prohibited by applicable Federal or State law or regulation; or
- iv) was an owner of a sole proprietorship or partner of a partnership which was a vendor at the time such vendor engaged in practices prohibited by applicable Federal or State law or regulation;

B) For purposes of subsection (a)(9) of this Section "applicable Federal or State law or regulation" shall include licensing or certification standards contained in State or Federal law or regulations related to the Medical Assistance Program, any other licensing standards as they relate to the vendor's practice or business or any Federal or State laws or regulations related to the Medical Assistance Program;

C) For purposes of subsection (a)(9) of this Section conviction or a plea of guilty to activities violative of applicable Federal or State law or regulation shall be conclusive proof that such activities were engaged in;

10) Such vendor, a person with management responsibility for a vendor; an officer or person owning (directly or indirectly) 5% or more of the shares of stock or other evidences of ownership in a corporate vendor; an owner of a sole proprietorship which is a vendor, or a partner in a partnership which is a vendor, has been convicted in this or any other State, or in any Federal Court, of any felony not related to the Medical Assistance Program, if such felony constitutes grounds for disciplinary action under the licensing act applicable to that individual or vendor;

11) The direct or indirect ownership of the vendor (including the ownership of a vendor that is a sole proprietorship, a partner's interest in a vendor that is a partnership, or ownership of 5% or more of the shares of stock or other evidences of ownership in a corporate vendor) has been transferred by an individual who is terminated or barred from participating as a vendor to the individual's spouse, child, brother, sister, parent, grandparent, grandchild, uncle, aunt, niece, nephew, cousin, or relative by affinity.

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b) If any of the activities described in subsections (a)(1) through (a)(9) above were engaged in prior to December 1, 1977, they may be used as the basis for termination only if the vendor had actual or constructive knowledge of the requirements which applied to his conduct or activities.

c) The Department may suspend a vendor's eligibility to participate in the Medical Assistance Program if the vendor is not in compliance with State income tax requirements, child support payments in accordance with Article X of the Public Aid Code, or educational loans guaranteed by the Illinois State Scholarship Commission. The vendor may prevent suspension of eligibility by payment of past-due amounts in full or by entering into payment arrangements acceptable to the appropriate State agency.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED RULES

1) Heading of the Part: Account Wagering

2) Code Citation: 11 Ill. Adm. Code 321

3) Section Numbers:

Proposed Action:

321.10 New Section  
321.20 New Section  
321.30 New Section  
321.40 New Section  
321.50 New Section  
321.60 New Section  
321.70 New Section  
321.80 New Section  
321.90 New Section

4) Statutory Authority: 230 ILCS 5

5) A complete description of the subjects and issues involved: This rulemaking establishes account wagering.

6) Will these proposed amendments replace emergency amendments currently in effect? No

7) Does this rulemaking contain an automatic repeal date No

8) Do these proposed amendments contain incorporation by reference? No

9) Are there any other proposed amendments pending in this Part? No

10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:

Gina DiCaro  
Illinois Racing Board  
Legal Department  
100 West Randolph, Ste. 11-100  
Chicago, IL 60601  
(312) 814-2600.

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: August 29, 1995

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED RULES

B) Types of small business affected: None

C) Reporting, bookkeeping or other procedures required for compliance: None

D) Types of professional skills necessary for compliance: None

13) This rule was not included on either of the 2 most recent agendas because: This rulemaking is a result of the change of racing law. This rulemaking was not anticipated by the Board; therefore, it has not been published in a regulatory agenda.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD  
NOTICE OF PROPOSED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER a: GENERAL RULES

PART 321  
ACCOUNT WAGERING

where they were opened, whereby wagers are placed by the account holder at a self-service terminal;

2) long-term accounts that are operational for all performances offered by the licensee, whereby wagers are placed by the account holder at a self-service terminal; and

3) voucher accounts that are operational for any performance offered by the licensee, whereby wagers are placed by the account holder at any ticket issuing terminal operated by the licensee.

b) The patron may choose to credit winning payouts in cash and may choose to close or cash-in the account at any time.

Section 321.30 Refusals

The licensee may reserve the right at any time to refuse to open an account, to accept a wager, or to accept a deposit.

Section 321.40 Patron Information

Each short-term or long-term account holder shall provide such personal information as the licensee and the State Director of Mutuels require, including an address to which communications are to be delivered. The licensee shall provide, for each short-term or long-term account holder, a confidential account number and password to be used by the patron to confirm validity of every account transaction.

Section 321.50 Deposits

Deposits may be made in cash or by check, whereby the proceeds of the check may first need banker's clearance. Holding periods shall be determined by the licensee and advised to the account holder. A receipt for the deposit shall be issued to the account holder, but does not need to reflect the current account balance.

Section 321.60 Sufficient Account Balance

Each account holder shall be deemed to be aware of the status of that account at all times. Wagers shall not be accepted which would exceed the available balance of that account. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.

Section 321.70 Account Credits

When an account holder is entitled to a payout or refund, the monies shall be credited to the respective accounts, thus increasing the credit balance. It is the responsibility of the account holder to verify proper credits and, if in doubt, notify the licensee. Unresolved disputes shall be forwarded to the State Director of Mutuels by the licensee or account holder.

ILLINOIS RACING BOARD  
NOTICE OF PROPOSED RULES

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER a: GENERAL RULES

PART 321  
ACCOUNT WAGERING

Section 321.10 General

- 321.10 General
- 321.20 Account Opening
- 321.30 Refusals
- 321.40 Patron Information
- 321.50 Deposits
- 321.60 Sufficient Account Balance
- 321.70 Account Credits
- 321.80 Account Operation
- 321.90 Account Closure

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 321.10 General

a) A licensee may offer a system of account wagering to its patrons whereby wagers are debited and payouts are credited to a sum of money, deposited in an account by the patron, that is held by the licensee. The licensee shall request authorization from the State Director of Mutuels before a system of account wagering is offered.

b) The licensee shall notify the patron, at the time of opening the account, of any rules the licensee has made concerning deposits, withdrawals, average daily balance, user fees, interest payments and any other aspect of the operation of the account. The licensee shall notify the patron whenever rules governing the account are changed, such notification occurring before the new rules are applied to the account and including the opportunity for the patron to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operations upon opening or not closing the account.

Section 321.20 Account Opening

a) The licensee may offer to open for its patrons:

- 1) short-term accounts that are operational only for the performance(s) during which they were opened and only at the site



## ILLINOIS RACING BOARD

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**Section 321.80 Account Operation**

- a) The licensee shall maintain complete records of every deposit, withdrawal, wager and winning payout for each short-term and long-term account. Voucher accounts shall be recorded in a manner similar to a ticket. These records shall be made available to the Board upon request.
- b) Any account wagering system shall provide for the account holder's review and finalization of a wager before it is accepted by the licensee. Neither the account holder nor the licensee shall change a wager after the account holder has reviewed and finalized the wager.

**Section 321.90 Account Closure**

The licensee may close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period approved by the State Director of Mutuels. In either case, the licensee shall refund the remaining balance of the account.

## ILLINOIS RACING BOARD

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- 1) Heading of the Part: Licensing
- 2) Code Citation: 11 Ill. Adm. Code 502
- 3) Section Numbers: 502.820 Proposed Action: Amendment
- 4) Statutory Authority: 230 ILCS 5
- 5) A complete description of the subjects and issues involved: This rulemaking establishes that dual licensing of jockeys, veterinarians, totalizator employees or farriers shall be prohibited unless approved by the Board.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporation by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:  
  
Gina DiCaro  
Illinois Racing Board  
Legal Department  
100 West Randolph, Ste. 11-100  
Chicago, Illinois 60601,  
(312)814-2600.

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: August 29, 1995

B) Types of small business affected: None

C) Reporting, bookkeeping or other procedures required for compliance: None

D) Types of professional skills necessary for compliance: None

ILLINOIS RACING BOARD

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13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Board did not anticipate these changes at the time of its last regulatory agenda, therefore it was not published in any regulatory agenda.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER C: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 502  
LICENSING

SUBPART A: PROCEDURE

- Section 502.10 Submission of Application
- 502.20 Complete Application
- 502.30 License Fees
- 502.40 Duration and Extent of Occupation Licenses
- 502.50 Rulings and Hearings
- 502.55 Denial of License
- 502.58 License to Participate

SUBPART B: STATUTORY GROUNDS FOR DENIAL OF A LICENSE

- Section 502.60 Denial of a License for Criminal Conviction
- 502.72 First-Time Applicant Who Has Been Convicted of a Crime
- 502.76 Prohibitions Against Persons on Conditional Discharge, Parole, Probation or Supervision
- 502.78 Probationary Nature of Licenses
- 502.80 Unqualified to Perform the Duties
- 502.90 Falsifying Answers or Omitting Facts
- 502.100 Just Cause
- 502.102 Burden of Going Forward
- 502.104 Denial of a License for Just Cause in Illinois or in Another Racing Jurisdiction

SUBPART C: GENERAL CRITERIA

- Section 502.110 Criteria for Determining Eligibility
- 502.115 Standards Required of All Applicants

SUBPART D: OWNERS

- Section 502.120 Owners

SUBPART E: TRAINERS AND ASSISTANT TRAINERS

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

Section  
502.200 Trainers and Assistant Trainers  
502.210 Prospective Trainers or Assistant Trainers  
502.220 Workers' Compensation

## SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

Section  
502.230 Jockeys and Apprentice Jockeys  
502.235 Apprentice Jockeys, Criteria for Eligibility  
502.238 Apprentice Contract or Certificate

## SUBPART G: DRIVERS

Section  
502.250 Harness Driver  
502.260 Prospective Harness Drivers  
502.270 "Q" Licenses  
502.280 "P" Licenses  
502.290 "A" Licenses

## SUBPART H: OTHER LICENSEES

Section  
502.300 Veterinarians  
502.320 Veterinary Assistant  
502.350 Farriers (Blacksmiths)  
502.380 Exercise Riders  
502.400 Pony Person  
502.450 Stable Foreman  
502.500 Jockey Agents  
502.600 Authorized Agents  
502.650 Tack Shop Operators and Other Vendors  
502.660 Vendor Helper  
502.680 Thoroughbred Grooms  
502.690 Harness Grooms  
502.700 Hotwalker  
502.790 Totalizator Employee

## SUBPART I: CONFLICTS OF INTEREST

Section  
502.800 General Provision  
502.820 Dual Licensing  
502.830 Limitations on License  
502.840 Husbands and Wives  
502.850 Transfer of a Horse

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Authorized by Sections 9(b) and 15 of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b) and 15].

SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 9711, effective July 27, 1982, for a maximum of 150 days; adopted and codified at 6 Ill. Reg. 13786, effective October 25, 1982; amended at 7 Ill. Reg. 5225, effective April 1, 1983; amended at 11 Ill. Reg. 20611, effective January 1, 1988; amended at 13 Ill. Reg. 1562, effective January 23, 1989; amended at 13 Ill. Reg. 4931, effective March 22, 1989; amended at 14 Ill. Reg. 17641, effective October 16, 1990; amended at 15 Ill. Reg. 11985, effective August 12, 1991; amended at 16 Ill. Reg. 12774, effective July 31, 1992; amended at 17 Ill. Reg. 19961, effective November 9, 1993; amended at 18 Ill. Reg. 11615, effective July 7, 1994; amended at 19 Ill. Reg. 5034, effective April 1, 1995; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART I: CONFLICTS OF INTEREST

## Section 502.820 Dual Licensing

~~The following kinds of dual licenses shall be prohibited:~~

- a) A person licensed as a jockey, veterinarian, totalizator employee, or farrier shall not be licensed in any other capacity, unless approved by the Board.
- b) A person licensed as an owner shall not be licensed as a jockey agent, nor shall any person licensed as a jockey agent be licensed as an owner.
- c) A person licensed as a racing official shall not be licensed in another capacity during the race meeting at which that person is serving as a racing official, except as provided in 11 Ill. Adm. Code 422.60.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)



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- C) Types of professional skills necessary for compliance: No additional professional skills are necessary for compliance with this rulemaking.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1995
- The full text of the Proposed Amendment begins on the next page:

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Proposed Action:  
100.9710 New Section
- 4) Statutory Authority: 35 ILCS 5/1501(a)(8)
- 5) A Complete Description of the Subjects and Issues Involved: Section 1501(a)(8) of the Illinois Income Tax Act provides a statutory definition of the term "financial organization." This rulemaking is a listing of the types of entities that fall within the scope of the statutory definition.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this part? Yes

|                        |                        |                                   |
|------------------------|------------------------|-----------------------------------|
| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
| 100.9720               | New                    | April 28, 1995, 19 Ill. Reg. 6135 |

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a state mandate. This rulemaking does not modify any existing state mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Keith Staats  
Senior Counsel - Income Tax  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62708  
Phone: (217)782-7055

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business that falls within the definition of the term "financial organization."
- 3) Reporting, bookkeeping or other procedures required for compliance:  
None.

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

Section  
100.2000  
100.2050

Introduction  
Net Income (IITA Section 202)

## SUBPART B: CREDITS

Section  
100.2100

Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))

100.2150 Training Expense Credit (IITA 201(j))

100.2101 Replacement Tax Investment Credit (IITA 201(e))

100.2110 Investment Credit; Enterprise Zone (IITA 201(f))

100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))

100.2130 Investment Credit; High Impact Business (IITA 201(h))

100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))

100.2160 Research and Development Credit (IITA 201(k))

100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)

100.2180 Credit for Residential Real Property Taxes (IITA 208)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

Section  
100.2200

Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope

100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions

100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members

100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary

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Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income  
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER  
DECEMBER 31, 1986

Section  
100.2300

Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986

100.2310 Computation of the Illinois Net Loss Deduction

100.2320 Determination of the Amount of Illinois Net Loss Carryovers

100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers

100.2340 Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

100.2350 Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,  
CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section  
100.2470

Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

## SUBPART F: BASE INCOME OF INDIVIDUALS

Section  
100.2590

Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section  
100.2680

Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF  
BASE INCOME

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Section  
100.3000 Terms Used in Article 3 (IITA Section 301)  
100.3010 Business and Nonbusiness Income (IITA Section 301)  
100.3020 Resident (IITA Section 301)

## SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section  
100.3100 Compensation (IITA Section 302)  
100.3110 State (IITA Section 302)  
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

## SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section  
100.3200 Taxability in Other State (IITA Section 303)  
100.3210 Commercial Domicile (IITA Section 303)  
100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section  
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)  
100.3310 Business Income of Persons Other than Residents (IITA Section 304) - In General  
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) - Apportionment  
100.3330 Business Income of Persons Other Than Residents (IITA Section 304) - Allocation  
100.3340 Business Income of Persons Other Than Residents (IITA Section 304)  
100.3350 Property Factor (IITA Section 304)  
100.3360 Payroll Factor (IITA Section 304)  
100.3370 Sales Factor (IITA Section 304)  
100.3380 Special Rules (IITA Section 304)  
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))  
100.3400 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

## SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section  
100.5000 Time for Filing Returns: Individuals (IITA Section 505)  
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)

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100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)  
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)

## SUBPART O: COMPOSITE RETURNS

Section  
100.5100 Composite Returns: Eligibility  
100.5110 Composite Returns: Responsibilities of Authorized Agent  
100.5120 Composite Returns: Individual Liability  
100.5130 Composite Returns: Required forms and computation of Income  
100.5140 Composite Returns: Estimated Payments  
100.5150 Composite Returns: Tax, Penalties and Interest  
100.5160 Composite Returns: Credit for Resident Individuals  
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

## SUBPART P: COMBINED RETURNS

Section  
100.5200 Election to File a Combined Return  
100.5210 Procedure for Making the Election  
100.5220 Designated Agent for the Members  
100.5230 Combined Estimated Tax Payments  
100.5240 Claims for Credit of Overpayments  
100.5250 Liability for Combined Tax, Penalty and Interest  
100.5260 Combined Amended Returns  
100.5270 Computation of Combined Income and Tax  
100.5280 Definitions and Miscellaneous Provisions Relating to Combined Returns

## SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section  
100.7000 Requirement of Withholding (IITA Section 701)  
100.7010 Compensation Paid in this State (IITA Section 701)  
100.7020 Transacting Business Within this State (IITA Section 701)  
100.7030 Payments to Residents (IITA Section 701)  
100.7040 Employer Registration (IITA Section 701)  
100.7050 Computation of Amount Withheld (IITA Section 701)  
100.7060 Additional Withholding (IITA Section 701)  
100.7070 Voluntary Withholding (IITA Section 701)  
100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)  
100.7090 Reciprocal Agreement (IITA Section 701)



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## 100.7095 Cross References

## SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section  
100.7100 Withholding Exemption (IITA Section 702)  
100.7110 Withholding Exemption Certificate (IITA Section 702)  
100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

## SUBPART S: INFORMATION STATEMENT

Section  
100.7200 Reports for Employee (IITA Section 703)

## SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section  
100.7300 Returns of Income Withheld from Wages (IITA Section 704)  
100.7310 Quarterly Returns Filed on an Annual Basis (IITA Section 704)  
100.7320 Time for Filing Returns (IITA Section 704)  
100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)  
100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

## SUBPART U: COLLECTION AUTHORITY

Section  
100.9000 General Income Tax Procedures (IITA Section 901)  
100.9010 Collection Authority (IITA Section 901)

## SUBPART V: NOTICE AND DEMAND

Section  
100.9100 Notice and Demand (IITA Section 902)

## SUBPART W: ASSESSMENT

Section  
100.9200 Assessment (IITA Section 903)  
100.9210 Waiver of Restrictions on Assessments (IITA Section 907)

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## SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section  
100.9300 Deficiencies and Overpayments (IITA Section 904)  
100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)  
100.9320 Limitations on Notices of Deficiency (IITA Section 905)  
100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

## SUBPART Y: CREDITS AND REFUNDS

Section  
100.9400 Credits and Refunds (IITA Section 909)  
100.9410 Limitations on Claims for Refund (IITA Section 911)  
100.9420 Recovery of Erroneous Refund (IITA Section 912)

## SUBPART Z: INVESTIGATIONS AND HEARINGS

Section  
100.9500 Access to Books and Records (IITA Section 913)  
100.9510 Taxpayer Representation and Practice Requirements  
100.9520 Conduct of Investigations and Hearings

## SUBPART AA: JUDICIAL REVIEW

Section  
100.9600 Administrative Review Law (IITA Section 1201)

## SUBPART BB: DEFINITIONS

Section  
100.9700 Unitary Business Group Defined (IITA Section 1501)  
100.9710 Financial Organizations (IITA Section 1501)

## SUBPART CC: LETTER RULING PROCEDURES

Section  
100.9800 Letter Ruling Procedures

## APPENDIX A

TABLE A Business Income Of Persons Other Than Residents  
TABLE B Example of Unitary Business Apportionment  
Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

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**AUTHORITY:** Implementing the Illinois Income Tax Act (35 ILCS 5) and authorized by Section 1401 of the Illinois Income Tax Act (35 ILCS 5/1401).

**SOURCE:** Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART BB: DEFINITIONS

**Section 100.9710 Financial Organizations (IITA Section 1501)**

- a) General Definition. The term "financial organization" is defined in IITA Section 1501(a)(8) to mean any bank, bank holding company, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, building and loan association, credit union, currency exchange, cooperative bank, small loan company, sales finance company, investment company, or any

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person which is owned by a bank or bank holding company. This definition constitutes an exclusive and exhaustive list of the types of entities which are "financial organizations" under the Illinois Income Tax Act.

b) Out-of-State Financial Organizations. Generally, an entity which does not fall within any of the categories defined herein does not qualify as a financial organization. However, in the case of an entity operating in other state jurisdictions pursuant to the laws of a state other than Illinois, the requirements of Section 1501(a)(8) will be considered to have been met by a showing that in the regular course of its trade or business:

1) it is licensed or otherwise regulated as an entity of the type specifically identified in Section 1501(a)(8) as defined herein in the state of its commercial domicile; or

2) it would be licensed or regulated as an entity of the type specifically identified in Section 1501(a)(8) were it commercially domiciled in Illinois.

c) Related Person. A "related person" as referred to herein means any person deemed to own stock under the attribution of ownership rules in 26 U.S.C. Section 318 of the Internal Revenue Code.

d) Entities Engaged in Financial Organization and Other Activities. An entity must be primarily engaged in the operation of a financial organization as part of the regular course of its active trade or business in order to be considered as engaged in the operation of a "financial organization" under any of the above categories. For this purpose, an entity engaged in activities within the definition of "financial organization" as well as other activities is deemed to be primarily engaged as a "financial organization" if more than 50 percent of the entity's assets represent assets of a financial organization in any tax year. If the Director determines that an agreement, understanding or arrangement exists whereby assets are acquired in such a manner as to manipulate this test (e.g., through the use of intermediaries, pass-thru entities, or other arrangements) and such agreement or arrangement results in an improper or inaccurate allocation of income to Illinois, the Director may invoke his authority under Illinois Income Tax Act Section 404 and Section 100.3410 of this Part to make such adjustments as are reasonably required in order to determine the proper base income allocable to this State.

e) Bank. The term "bank" means a corporation organized and operating as a national banking association (i.e., a national bank pursuant to the laws of the United States) which is a bank under the Bank Holding Company Act of 1956, 12 U.S.C. 1841 et seq., or a banking corporation organized and operating under the laws of the State of Illinois. The term includes all such banks governed by 12 U.S.C. Section 21 et seq. (National Bank Act) or 205 ILCS 5 (Illinois Banking Act).

g) Bank Holding Company. The term "bank holding company" means an entity treated as a bank holding company and required to be registered with

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the Board of Governors of the Federal Reserve System, i.e., bank holding company within the Bank Holding Company Act of 1956, 12 U.S.C. Section 1841 et seq.

h) The term "trust company" means a corporation organized or eligible to act under the laws of the State of Illinois for the purpose of accepting and executing trusts, administering trusteeships and other fiduciary relationships for unrelated persons, as well as conducting a banking business. The term includes all such entities of the type governed by 205 ILCS 620 (Corporated Fiduciary Act) and includes national banks, federally chartered savings and loan associations, and federally chartered savings banks which are authorized to accept and execute trusts and which are eligible to act in a fiduciary capacity in the State of Illinois.

i) Savings Bank. The term "savings bank" means an entity organized under, and subject to, the laws of the State of Illinois or the United States regarding stock or mutual savings banks and includes all such savings banks governed by 12 U.S.C. Section 1451 et seq. (Home Owners' Loan Act) or 205 ILCS 205 (Savings Bank Act).

j) Industrial Bank. The term "industrial bank" means a corporation organized under, and subject to, State statutes regarding industrial banks or industrial loan companies.

k) Land Bank. The term "land bank" means a federally chartered land bank association organized to make loans on farm security at low interest rates as governed by 12 U.S.C., ch. 13 (Farm Credit System).

l) Safe Deposit Company. The term "safe deposit company" means a person organized and engaged in the business of renting safe deposit box facilities for the systematic safekeeping of valuable documents and property to unrelated customers. A safe deposit box is a locked box or safe that is in a vault under the control of a safe deposit company and used for the storage or safekeeping of personal property. The term includes all such institutions of the type governed by 240 ILCS 5 (Safety Deposit License Act) and also includes banking or savings and loan institutions organized under the laws of the State of Illinois or of the United States which are authorized to operate a safety deposit business under the supervision of State or Federal statutes in connection with a bank, savings bank, savings and loan or trust company.

m) Private Banker. The term "private banker" means an unincorporated banking institution conducted as a partnership or as an individual proprietorship which may be subject to state supervision and regulation depending on state statutes.

n) Savings and Loan Association. The term "savings and loan association" means a Federal savings association organized and operating pursuant to the laws of the United States or a savings and loan association organized and operating under the laws of the State of Illinois and includes all such mutual or stock savings and loans under 12 U.S.C. Section 1461 et seq. (Home Owners' Loan Act) or 205 ILCS 105 (Illinois Savings and Loan Act of 1985).

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o) Building and Loan Association. The term "building and loan association" means a savings and loan association organized to accumulate a fund from the subscriptions and savings of its members to be used in assisting them in financing through home loans the construction or acquisition of residential real estate.

p) Credit Union

1) General. The term "credit union" means an entity governed by 12 U.S.C. Section 1751 et seq. (Federal Credit Union Act) or 205 ILCS 305 (Illinois Credit Union Act), i.e., a cooperative, non-profit association, incorporated under Illinois law, under the laws of the United States or under the laws of another state, for the purposes of encouraging thrift among its members, creating a source of credit at a reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social conditions. The membership of a credit union shall consist of a group or groups each having a common bond as defined in 205 ILCS 305/1.1 of the Illinois Credit Union Act.

2) Common Bond. The term "common bond" refers to groups of people who meet one of the following qualifications:

A) Persons who belong to a specific association, group or organization, such as a church, labor union, club or society and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.

B) Persons who reside in a reasonably compact and well defined neighborhood or community, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.

C) Persons who have a common employer or who are members of an organized labor union or an organized occupational or professional group within a defined geographical area, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.

q) Currency Exchange. The term "currency exchange" means a person, firm, association, partnership or corporation engaged in the business of operating a currency exchange, providing services such as cashing evidences of money for a fee or engaging in the business of selling or issuing money orders and which is governed by 205 ILCS 405 (Currency Exchange Act).

r) Cooperative Bank. The term "cooperative bank" means an entity organized under, and subject to, State statutes or the laws of the United States regarding cooperative banks and includes all such cooperative banks governed by 12 U.S.C., ch. 23, subchapter III (Banks for Cooperatives).

s) Small Loan Company. The term "small loan company" means a person engaged in the business of making secured consumer loans of money



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under a certain amount and rate of interest, and which is governed by 205 ILCS 670 (Consumer Installment Loan Act).

b) Sales Finance Company. The term "sales finance company" means a person engaged in the business of purchasing or making loans upon the security of retail installment contracts or retail charge agreements or the outstanding balances under such contracts or agreements. The term may include but is not limited to:

1) Persons engaged in consumer sales finance activities of the type governed by 205 ILCS 660 (Sales Finance Agency Act) or in activities which would be governed by the Sales Finance Agency Act if such activities were conducted in the State;

2) All such activities governed by 815 ILCS 415 (Retail Installment Sales Act) including the making or purchasing of retail installment contracts or retail charge agreements for "goods" and "services" as defined in 815 ILCS 405/2.1 and 405/2.2 or activities which would be governed by the Retail Installment Sales Act if such activities were conducted in this State;

3) All such activities governed by 815 ILCS 375 (Motor Vehicle Retail Installment Sales Act) or activities which would be governed by the Motor Vehicle Retail Installment Sales Act if such activities were conducted in this State;

4) Persons engaged in commercial finance activities of the type governed by 810 ILCS 5 (Illinois Uniform Commercial Code) or in activities which would be governed by the Illinois Uniform Commercial Code if such activities were conducted in this State; and

5) Persons engaged in the finance leasing of tangible personal property. "Finance leasing" is leasing activity which is the economic equivalent of an extension of credit, and which is not treated as a lease for federal income tax purposes, i.e., the lessor is not entitled to a deduction for depreciation under 26 U.S.C. Section 167 of the Internal Revenue Code.

u) Investment Company. The term "investment company" means an entity which is registered as an investment company under the Investment Company Act of 1940, i.e., an issuer which is within the definition of investment company in 15 U.S.C. Section 80a-3(a).

v) Person Owned by a Bank or Bank Holding Company. The term "financial organization" under the Illinois Income Tax Act includes "any person which is owned by a bank or bank holding company." For the purposes of IITA Section 1501(a)(8), a "person" will include only those persons in which a bank holding company may acquire and hold an interest, directly or indirectly, under the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.) and Regulation Y promulgated thereunder by the Board of Governors of the Federal Reserve System (12 C.F.R. part 225). For these purposes, a "person" will not include interests in any person which must be disposed of within certain required time limits under the Bank Holding Company Act of 1956.

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(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Oversize and Overweight Permit Movements on State Highways

- 2) Code Citation: 92 Ill. Adm. Code 554

- 3) Section Numbers: Proposed Action:

|         |             |
|---------|-------------|
| 554.101 | Amend       |
| 554.107 | Amend       |
| 554.109 | Amend       |
| 554.112 | Amend       |
| 554.201 | Amend       |
| 554.202 | Amend       |
| 554.204 | Amend       |
| 554.211 | Amend       |
| 554.212 | New Section |
| 554.310 | Amend       |
| 554.312 | Amend       |
| 554.402 | Amend       |
| 554.404 | Repealed    |
| 554.405 | Repealed    |
| 554.406 | Repealed    |
| 554.407 | Amend       |
| 554.409 | Amend       |
| 554.413 | Amend       |
| 554.503 | Amend       |
| 554.504 | Amend       |
| 554.505 | Amend       |
| 554.508 | Amend       |
| 554.509 | Amend       |
| 554.518 | Amend       |
| 554.601 | Amend       |
| 554.607 | Amend       |
| 554.608 | Amend       |
| 554.710 | Amend       |
| 554.802 | Amend       |
| 554.907 | Amend       |
| 554.908 | Amend       |
| 554.910 | Amend       |

- 4) Statutory Authority: 625 ILCS 5/15

- 5) A complete description of the subjects and issues involved: The purpose of this Part is to provide definitive methods for the issuance of oversize and overweight permits. The revisions to this Part address, among other things, the need for fewer Illinois Department of Transportation (IDT) registrations, instances when permit loads can move on a 24 hour basis, allowance for round trip permits, and, the updating of Limited Continuous

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Operation permits to allow for 16 feet wide mobile homes. In addition, this rulemaking provides for the issuance of annual permits while retaining the provisions regarding quarterly permits. This rulemaking adds a new Section on Fraudulent Permits, provides guidelines on revisions of permits, repeals provisions concerning flaggers, updates the guidelines on the use of escort vehicles, removes language no longer relevant to axle groupings, removes language regarding maximum distances for oversize loads, adds a definition of "Nearest Scale", provides for supplemental permit fees, and clarifies fees for pavement analysis and engineering investigations.

The following analysis provides more detail concerning the major revisions to this Part.

Section 554.112 IDT Registration

Vehicles that once were required to register for the movement of exceptionally large loads will no longer be required to do so. The Department is removing this language after determining that this program did not achieve its intended goal. Originally, the inspection of certain multiple axle groupings on truck/trailer combinations was supposed to provide for the equalization of weights within those groupings. Certain truck/trailer combinations are now weighed at State of Illinois scales to assure compliance with permit requirements.

Section 554.201 Permits for Single Trip Movements

A new provision has been included that allows permit moves that are overweight only to move on a 24 hour per day, 7 days a week basis instead of imposing the time restrictions required of oversize moves.

Section 554.202 Permits for Round Trips

The Department will not issue round trip permits when the dimensions and/or weight of the object to be moved are above categorical (routine) limitations (see 625 ILCS 5/15-307(g)).

Section 554.204 Permits for Limited Continuous Operation

Previously, Limited Continuous Operation permits were issued only for a maximum of 90 days up to and including 14 feet 4 inches wide. Currently, the Department is issuing Limited Continuous Operation Permits for a period of one year and for mobile homes up to and including 16 feet wide. The revisions to this Section reflect current practice.

Section 554.211 Revision of Permits

The existing language under this Section is redundant. The Department

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revised this Section by shortening and clarifying the language.

Section 554.212 Fraudulent Permit

The Department is including this new Section at the request of the Illinois State Police (ISP). While convictions for fraudulent permits is extremely rare, this Section will provide greater guidance to the ISP and the courts when arrests and subsequent convictions for fraudulent permits are made.

Section 554.310 Procedure Following Arrest for Violation

A new permit must be purchased if a violation of the permit has occurred concerning the allowable weight tolerance limits. No revisions will be made to the permit even though weights can be adjusted to meet tolerance limits.

Concerning Sections 554.404, 554.405 and 554.406 pertaining to Flagmen, the Department no longer requires flaggers when oversize or overweight objects are being moved. Traffic control is now coordinated by escort vehicles when required.

Section 554.407 When Escort Vehicles Are Required

The Department has relaxed its requirements for the use of escort vehicles with permit loads. State Police vehicles are also used on a less frequent basis because of the increasing difficulty of obtaining their services.

Section 554.413 Axle Suspension for Overweight Moves

Since no vehicle inspections are made, only basic language regarding the equalizations within each axle grouping is needed.

Section 554.505 Width Exceeding 14 Feet 6 Inches

The Department will now work with those attempting to move extremely large objects to a specific destination. Maximum distances that certain sized objects were originally allowed to move no longer apply.

Section 554.607 Movement to a Designated Scale

"Nearest Scale" is defined.

Section 554.907 Supplemental Permit Fees

A \$50.00 handling fee is required for supplemental permits. Authority for this action can be found in 625 ILCS 5/15-301(g).

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Section 554.910 Fee for Engineering Inspections and Investigations

The Department charges a fee of \$40.00 per hour for Engineering Inspections and Pavement Analyses. Authority for this action can be found in 625 ILCS 5/15-311.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This Part affects any individual, private company, not-for-profit organization, or unit of local government that intends to move oversize and overweight objects within the boundaries of the State of Illinois on roadways under the jurisdiction of the Department of Transportation.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. Joe Hill, Maintenance Operations Engineer  
Illinois Department of Transportation  
Bureau of Operations, Room 009  
2300 South Dirksen Parkway  
Springfield, IL 62764  
(217) 782-2984

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, IL 62764

Comments received within forty-five days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Primarily, the small businesses



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affected by this rule are those in the trucking industry.

B) Reporting, bookkeeping or other procedures required for compliance: Application forms are required to be completed and permits must be paid for before issuance.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The Department did not anticipate amending Part 554 in 1995.

The full text of the Proposed Amendments begins on the next page:

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## TITLE 92: TRANSPORTATION

## CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER F: HIGHWAYS

## PART 554

## OVERSIZE AND OVERWEIGHT PERMIT MOVEMENTS ON STATE HIGHWAYS

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Partial Invalidity  
Scope  
When a Permit is Required  
To Whom Permits are Issued  
A Permit is a Legal Document  
Penalties  
Insurance  
For-Hire Moves  
Illinois Motor Vehicle Laws  
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## SUBPART B: TYPES OF PERMITS

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Permits for Single Trip Movements  
Permits for Round Trips  
Permits for Repeated Moves of Like Objects  
Permits for Limited Continuous Operation  
Permits for Repeated Moves Directly Across a Highway  
Permits for the Movement of Overweight 2-Axle Truck Loaded with Sweet Corn, Soybeans, Corn, Wheat, Milo, or other small grains and Ensilage  
Permits for the Movement of Construction Equipment within a Construction Zone  
Supplemental Permits  
Scope: Duty of Permittee to Read Permit Upon Receipt  
Extension of Permits  
Revision of Permits  
Fraudulent Permit

## SUBPART C: ISSUANCE OF PERMITS

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554.301  
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Transmission Media  
Original Transmission Only is Valid as Permit  
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Permit Office

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| 554.306 | Method of Application  |
| 554.307 | Data Needed on Application   |
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| 554.309 | Preliminary Application for Estimating Purposes for Proposed Moves   |
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## SUBPART D: GENERAL CONDITIONS AND PROVISIONS

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| 554.401 | Short Form Permits                         |
| 554.403 | Form BT 993                                |
| 554.404 | When Flagmen are Required (Repealed)       |
| 554.405 | Qualifications for Flagmen (Repealed)      |
| 554.406 | Duty of Flagman (Repealed)                 |
| 554.407 | When Escort Vehicles Are Required          |
| 554.408 | Requirements for Civilian Escorts          |
| 554.409 | Mobile Homes <del>House-trailers</del>     |
| 554.410 | Overdimension                              |
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## SUBPART E: OVERDIMENSION VEHICLES AND LOADS

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| 554.510 | Mobile Home <del>House-trailer</del> Frames  |
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| 554.513 | Distances Buildings May be Moved   |
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## SUBPART F: OVERWEIGHT VEHICLES AND LOADS

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| Section | Scope  |
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| 554.603 | Practical Maximum Weights                      |
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## SUBPART G: SPECIFIC POLICIES INDUSTRIAL HIGHWAY CROSSING

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| Section | Scope  |
| 554.701 | Data Required for Industrial Highway Crossings |
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SUBPART H: EMERGENCIES AND HAZARDOUS MATERIALS

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554.801 General  
554.802 Mobile Home House-~~Trailer~~ Emergency Moves  
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- Section  
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554.911 Fees for Illinois State Police Escorts  
554.912 Special Categories of Fees (Repealed)  
554.913 Other Overweight Fees (Repealed)  
554.914 Fees for Round Trip and Repeat Move of Like Object Permits (Repealed)  
554.915 Fee Schedules (Tables 1, 2, and 3) (Repealed)

- APPENDIX A Data Relative to Vehicles Authorized to Operate on Illinois Highways (Repealed)  
APPENDIX B Legal Gross Weights of Vehicles and Combinations of Vehicles Authorized by Section 15-111, Illinois Vehicle Code (Repealed)  
APPENDIX C Application Form BT 1928 (Repealed)  
APPENDIX D Special Vehicle Movement Permit - Form BT 993 (Repealed)  
APPENDIX E Form BT 750 (Repealed)  
APPENDIX F Form BT 751 (Repealed)  
APPENDIX G Application for Establishment of an Open Account with the Permit Section, Bureau of Traffic (Form BT 1932) (Repealed)  
APPENDIX H Bond for Payment of Special Permit Fees and Charges to Illinois Department of Transportation for Movement of Vehicles of Excess Dimensions or Weight Over Illinois Highways (Form BT 1931) (Repealed)

AUTHORITY: Implementing and authorized by Article III of the Illinois Size and Weight Law [625 ILCS 5/Ch. 15, Art. III].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 2, p. 256, effective January 1,

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1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 24, p. 586, effective May 29, 1980; codified at 7 Ill. Reg. 9672; amended at 11 Ill. Reg. 3248, effective February 3, 1987; amended at 12 Ill. Reg. 13232, effective July 29, 1988; amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL REGULATION

Section 554.101 Legal Authority

The Department of Transportation is authorized by the Illinois Size and Weight Law [625 ILCS 5/Ch. 15] ~~that~~ ~~Rev-Stat-1987-ch-95-1-2-par-15-301-et-seq~~ to issue special permits. These special permits allow the operation of vehicles or loads that exceed the legal maximum dimensions and weights. The permits are valid only for those highways under Department jurisdiction. ~~This~~ Part 554 shall supersede all policies previously established and published by the Department of Transportation pertaining to oversize and overweight permit movements.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 554.107 Penalties

Penalties for violating a permit are listed in Sections 15-112, 15-113, 15-113.1, 15-113.2, 15-113.3, and 15-301 of the Illinois Size and Weight Law and Chapter 16 of the ~~the~~ Illinois Vehicle Code [625 ILCS 5/Ch. 16] ~~that~~ ~~Rev-Stat-1987-ch-95-1-2-par-16-101-et-seq~~.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 554.109 For-Hire Moves

Information concerning for-hire moves under the Illinois Commercial Transportation Law [625 ILCS 5/Ch. 18c] ~~that~~ ~~Rev-Stat-1985-ch-95-1-2-par-18c-1101-et-seq~~ may be obtained from the Motor Carrier Division of the Illinois Commerce Commission, Springfield, Illinois 62706.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 554.112 IDT Registration

- a) Applicants for special permits may apply for IDT registration and for a decal (label) that will identify a specific vehicle and its classification. Forms are available from the Permit Office.  
b) IDT classifications are as follows:  
1) Class A Truck Tractor.



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A 3-axle vehicle with a 2-axle drive tandem capable of drawing a gross weight of up to 120,000 pounds.

2) Class A Semitrailer.

A 3-axle tandem semitrailer that, together with a truck tractor, will support and move a gross weight of 120,000 pounds.

3) Class B Semitrailer.

A 2-axle tandem semitrailer that, together with a truck tractor, will support and move a gross weight of 100,000 pounds.

4) Class B Truck-Tractor.

A vehicle capable of drawing a gross weight in excess of 120,000 pounds. Visual inspection and approval based on the criteria outlined in Section 554-1347 are required prior to issuance of the decal. Any modifications to the suspension system subsequent to the inspection will result in the suspension of this registration pending a new inspection.

5) Class B5 Semitrailer.  
A vehicle that, together with a truck tractor, will support and move a gross weight of more than 120,000 pounds. Visual inspection and approval based on the criteria outlined in Section 554-1347 are required prior to issuance of the decal. Any modifications to the suspension system subsequent to inspection will result in suspension of the registration pending a new inspection.

1) Class M Mobile Crane or Well Drilling Vehicles.

A 4-axle vehicle; 76,000 pounds gross weight; maximums of 34,000 pounds on one tandem and 44,000 pounds on the other; wheelbase 23 feet or more; not more than 12 feet wide; not over 60 feet long.

2) Class N Mobile Crane or Well Drilling Vehicles.

3-axle vehicle; 68,000 pounds gross weight; 20,000 pounds on steering axle and 48,000 pounds on tandem; wheelbase 18 feet or more; no more than 12 feet wide; not over 60 feet long.

c) Conditions under which classification and registration may be obtained and used:

1) IDT decals are valid for up to two years and cost \$5.00 each.

Checks should be made payable to "Treasurer, State of Illinois."

2) To be valid, the proper decal must be affixed to the left side of the vehicle in a conspicuous place.

3) When vehicles are classified and decals issued, vehicles may be identified both in applications for permits and in permits by classification only, provided the proposed move does not exceed the classification limits of the vehicle or of any vehicle within the combination.

4) Vehicles identified only by classification may be used in combinations other than truck tractor semitrailers, providing axle spacings are furnished.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective

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## SUBPART B: TYPES OF PERMITS

## Section 554.201 Permits for Single Trip Movements

a) Permits for single trip movements are issued for one-way movement. These permits are valid for 5 working days.

b) Unless stated otherwise on the permit:

1) permit movements may be made only from a half hour before sunrise to a half hour after sunset on weekdays and from a half hour before sunrise to noon on Saturday;

2) permit movements are prohibited on Sunday and on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day; and

3) permit movements will not be allowed later than noon on the day preceding a holiday weekend; and

4) categorical permit moves (See Sections 554.504, 554.507, 554.508 and 554.604 for limitations pertaining to categorical moves) that are overweight only shall be allowed to move with no time restrictions.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective

## Section 554.202 Permits for Round Trips

a) Permits for round trip moves may be issued provided:

1) the same or "like" object is to be moved in both directions,

2) the same vehicle is to be utilized, except that another vehicle bearing the same IDT Class A or B may be substituted for the return trip, and

3) the same route is to be traveled in the reverse direction.

A description, including make and model, of the equipment being transported must be furnished to the Permit Office.

c) Applications for round trip moves will be the same as for a single trip move, except the words "and return" may be added. Round trip permits over a circular or roundabout route will not routinely be issued. For example, when a routing on a divided highway is adequate for the size or weight in one direction, but due to a lower clearance or a deficiency in a structure in the opposite direction, it is necessary to route the movement over different highways on the return trip. A single trip permit will not be revised to include "round trip" after the permit has been issued a move has been undertaken.

Round trip permits are subject to the restrictions contained in Section 554.201 except such permits are valid for a period of 10 working days and one round trip move. The Department will not issue round trip permits when the dimensions and/or weight of the object to be moved are above categorical (routine) limitations. See Section 554.504.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective

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(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.204 Permits for Limited Continuous Operation

Permits for limited continuous operation are available for the movement of overdimension legal weight pieces of construction equipment, or mobile homes, storage buildings or trusses. These permits are valid for a period of three months or one year except as otherwise indicated. The following items are pertinent:

- a) Limited Continuous Operation Permits may be issued for the movement of overdimension construction equipment or vehicles, provided:
  - 1) The movement will consist of a specific vehicle, a designated piece of construction equipment, or a "like" load. The vehicle or load may be moved on a specific vehicle, under its own power, or on an IDT registered vehicle combination. A "like" load must be the same as the load described in the permit, including make and model. In order to minimize trips and conserve fuel, a permittee may haul, along with the designated object or "like" load, an additional legal size object, provided it is loaded within the legal width, height, and length dimensions and the axle and gross weights are legal.
  - 2) The vehicle or combination of vehicles is properly licensed if plates are required; and
  - 3) The overall width does not exceed 12 feet.
- b) A permit may be obtained to move an overdimension empty vehicle that is normally used to haul oversize or overweight permit loads. Such permits are needed when returning empty after having delivered an oversize or overweight piece of equipment. In order to minimize trips and conserve fuel, the permittee may, instead of returning empty, haul a legal size object with this permit, provided the axle and gross weights are legal and the object is loaded to conform to the legal width, height, and length limits.
- c) Limited Continuous Operation permits for the movement of mobile homes ~~house-trailers~~ or modular sections may be issued, provided:
  - 1) The overall width does not exceed 12 feet;
  - 2) The overall length of mobile home ~~house--trailer~~ and towing vehicle does not exceed 85 feet;
  - 3) The applicant is a dealer licensed by the Secretary of State of Illinois or by another state to do business as a mobile home ~~house-trailer~~ dealer; a hauler having an Illinois Commerce Commission permit; a hauler having an Interstate Commerce Commission permit; a mobile home ~~house-trailer~~ manufacturer; or a Federal, State, or local governmental agency.
- d) Limited Continuous Operation Permits may be issued for highway construction, transportation, utility, and maintenance equipment owned and operated by a local governmental authority for a period of one ~~year~~ 6-months.

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- e) Limited Continuous Operation Permits may be issued for mobile homes, modular sections, or storage buildings up to 16 feet wide. These permits will also be issued up to a height of 15 feet 0 inches and length up to 99 feet 0 inches. Movement under authority of these permits (greater than 12 feet wide and/or 14 feet 6 inches high) is limited to a radius of 100 highway miles from the origin.
- f) Limited Continuous Operation Permits may be issued for trusses up to 14 feet wide and 85 feet long.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.211 Revision of Permits

A permit shall not be altered or revised except by the Permit Office.

- a) The Permit Office may issue revisions to permits:
  - 1) to correct an error attributed to the issuing office;
  - 2) at the request of the applicant before the move has been started; ~~to correct an error attributed to the applicant discovered before the move has been started; or~~
    - A) to correct an applicant error;
    - B) to alter routes or destinations;
    - C) to correct or increase sizes or weights;
    - D) to substitute a vehicle used to transport a load;
  - 3) to adjust weights as outlined in Section 554.608; or
  - 4) due to emergency or exceptional conditions beyond the control of or outside the normal scope of knowledge of the applicant.
- b) It is the responsibility of the applicant to ensure accuracy of the application. Second revisions will not normally be issued.
- c) ~~Consistent with the provisions of this section, revisions may be issued before the move is started:~~
  - 1) ~~to alter routes or destinations;~~
  - 2) ~~to correct or increase sizes or weights;~~
  - 3) ~~to substitute the vehicle to be used to transport the load; or~~
  - 4) ~~to otherwise correct a permit in conformance with this section as stated above.~~
- d) ~~Also,~~ Consistent with the provisions of this Section ~~section~~, revisions will not be issued ~~except to correct errors of the issuing office:~~
  - 1) For Permits for Repeated Moves of Like Objects because applications for such moves have been given considerable advance planning;
  - 2) For Limited Continuous Operation Permits;
  - 3) To change the name of the permittee;
  - 4) To change the origin or first route of the move except when entering from the same State line;
  - 5) To alter the description of the load or change the serial number of a mobile home ~~house-trailer~~; or

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- 6) To ~~alter-or-otherwise~~ revise a permit that has been violated.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 554.212 Fraudulent Permit**

A permit shall be deemed fraudulent if it is used in a manner or altered to facilitate use in a manner contrary to the Illinois Size and Weight Law, contrary to this Part, contrary to the terms and conditions of the permit as issued, or to otherwise conduct an unpermitted move. A fraudulent permit is void and any move thereunder is considered an unpermitted move. An unpermitted move under a fraudulent permit would include, but would not be limited to:

- a) Operation of multiple movements under provision of a single trip permit.
- b) Movement of a load not as described on the presented permit.
- c) Movement with an issued permit that, without authorization from the Department of Transportation's Permit Officer, has had the original specifications or restrictions altered.
- d) Movement when the axle spacing of the hauling unit does not conform to those indicated on the permit application.

(Source: Added at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: ISSUANCE OF PERMITS

**Section 554.310 Procedure Following Arrest For Violation**

- a) Following an arrest for violation of a permit, if the load can be shifted to comply with the provisions of the permit, the driver or owner may make the shift and then proceed. If the load cannot be shifted or otherwise adjusted to comply with the permit, a new permit must be secured following the same procedures as for an original permit.
- b) If the permit designates and includes a routing to a certified scale that was requested on the application as outlined in Section 554.607, the permittee, while enroute to the designated scale, shall be deemed in compliance with the weight provisions of the permit provided the axle or gross weights do not exceed any of the permitted limits by more than 2000 pounds on a single axle, 3000 pounds on a tandem axle, and 5000 pounds on the gross weight. Before leaving the designated scale area, the permittee must either:
  - 1) shift the load to comply with the permitted weights,
  - 2) obtain a revision from Permit Office if the final weights exceed the permit limits out are within the tolerances, or
  - 3) obtain a new permit if the weight tolerances are exceeded.

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- c) Once a permit is violated for weights above tolerance limits, a revision will not be issued even though weights can be adjusted to be within tolerance limits.

d) The fact that a new permit may be issued to continue the move carries no assumption of intent, error, mistake, or mitigating circumstances concerning the limitations, conditions, or provisions contained in the original permit that may affect its status subsequent to arrest.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 554.312 Permits for Moves Over Toll Highways**

- a) Permits for overweight and overdimension movements over the Illinois Toll Highway System are not issued by the Department of Transportation but are required when legal dimensions or weights are exceeded. A maximum width of 10 feet is allowed on most the toll roads due to physical limitations. A maximum width of 12 feet is allowed on the sections of the toll road system that carry Interstate Route 80 and U.S. Route 51.

- b) These permits may be obtained from the Illinois State Toll Highway Authority, Downers Grove ~~Oak Brook~~, Illinois 60515 60521 (telephone, 708/241-6800 312/654-2200). Overdimension permits may also be purchased at a Toll Plaza. A permit is required from the Permit Office for movement on State highways leading to and from the toll road.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: GENERAL CONDITIONS AND PROVISIONS

**Section 554.402 Short Form Permits**

- a) Permits issued in writing, by telegram, or other electronic transmission have been shortened to reduce the cost of the messages. Applicable conditions and restrictions are indicated by code letter and number, which are contained in Form BT 993+. A copy of Form BT 993 must accompany the permit or the permittee is subject to arrest in accordance with Section 15-301(j) of The Illinois Size and Weight Law.
- b) Permits issued by telephone shall be written in ink or typed by the permittee on Form BT 1928+. The permittee must complete the applicable portions of this form as directed by the Permit Office prior to starting the move. The record of the permit as maintained by the Permit Office shall be presumed correct in any questions or dispute. These forms contain general provisions on the reverse side. The permittee need not have a Form BT 993 in his possession when obtaining a permit by telephone and using the Form BT 1928. The



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Permit Office may require a copy of the form completed by the permittee for any permit issued by telephone to be submitted to the Permit Office to verify the information has been correctly recorded. It is anticipated this will only be done on forms the Department has reason to believe have been inaccurately completed or if the company is suspected of abusing the self issue permit system. If a company has abused the system by, for example, attempting to use the same permit for more than one move or knowingly completing the form inaccurately, the company will not be allowed to obtain permits by telephone.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.404 When Flagmen are Required (Repealed)

~~The Department may specify a flagman to accompany any permit move that may adversely affect the flow of traffic or create traffic hazards. Flagmen may also be required to provide information and direct motorists when a permit move causes a temporary road closure. An escort vehicle may be used in lieu of a flagman.~~

(Source: Repealed at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.405 Qualifications for Flagmen (Repealed)

~~The flagman shall be an employee or an agent of the grantee and shall be at least 18 years of age and shall be equipped with a red flag not less than 18 inches square mounted on a staff. He may ride in the cab of the towing vehicle or in an accompanying vehicle. If riding in a separate vehicle, the flagman must be in radio contact with the driver of the permit vehicle. One flagman shall not be assigned to two or more simultaneous moves.~~

(Source: Repealed at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.406 Duty of Flagman (Repealed)

~~The flagman shall dismount and direct traffic at all locations where traffic may be obstructed or when it is necessary to infringe on the opposite-bound traffic lane due to breakdown, putting on or off pavement or other causes.~~

(Source: Repealed at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.407 When Escort Vehicles are Required

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- a) One civilian escort vehicle is required:
- 1) For all moves that exceed 14 feet 6 inches in width;
  - 2) For all moves that exceed 110 feet in length;
  - 3) For all moves that exceed 14 feet 6 inches in height;
- †† ~~Permit moves that exceed the practical maximum weights in Section 554.604.~~
- †† 1) 5) For any move either across, upon, or along a highway when additional warning is required to alert the traveling public. For instance, if a movement is required to travel during darkness or on a weekend to respond to an emergency situation, a civilian escort will be required.
- b) Two civilian escort vehicles are required:
- 1) For all moves that exceed 15 feet in width; or
  - †† ~~For all moves more than 14 feet 6 inches in width; or~~
  - 2) For all moves that exceed 16 feet in height; or
  - 3) For all moves that exceed both 14 feet 6 inches in width and 14 feet 6 inches in height.
- c) Three civilian escorts are required:
- 1) For all moves that exceed 16 feet in width;
  - 2) For all moves that exceed 145 feet in length;
  - 3) For all towed special haul rigs more than 150 feet in length.
- d) †† Illinois State Police Escorts

1) Illinois State Police escorts are generally required:

- A) For moves greater than 18 feet wide;
  - B) For moves of greater than 175 feet in length;
  - †† ~~For all moves over 15 feet 6 inches wide on non-freeways;~~
  - B) ~~For moves over 16 feet wide on freeways;~~
  - C) ~~For moves over 145 feet long;~~
  - C) †† For moves over 18 feet high;
  - D) †† For overweight moves where bridge restrictions require that all traffic be kept off of a structure while the permitted vehicle crosses; or
  - E) †† For any move of an unusual nature where additional traffic control is necessary to alert the motoring public to the permit movement.
- 2) These moves will normally be made partially or entirely outside a municipality. The permittee must make all arrangements with the designated State Police Headquarters at least 24 hours prior to the move. The Permit Office may determine a State Police escort is not necessary in some instances including but not limited to the following: 1.) on moves made within a municipality if local police are utilized as specified in Section 554.407(d), 2.) on movements where the object will only cross a State highway and minimal disruption of traffic is anticipated or 3.) on moves over 18 feet high if a field investigation reveals there are not any overhead obstructions.

e) †† Local police escorts may be required in lieu of State Police escorts when the move is made entirely within the limits of a city or county.

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It is the responsibility of the permittee to make all arrangements with the local police when the permit specifies such an escort as a condition of the permit.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 554.409 Mobile Homes House-Trailers

Following are the minimum size vehicles that may be used to tow house trailers:

- a) 8 feet wide - passenger car.
- b) Over 8 feet up to 10 feet wide, 70 feet overall length - 3/4-ton truck
- c) Over 10 feet up to 12 feet wide, 85 feet overall length - 1-ton truck with dual wheels.
- d) Over 12 feet wide up to 95 feet overall length - 2-ton truck with dual wheels.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 554.413 Axle Suspension for Overweight Moves

- a) Overweight permits for vehicles with multiple axles in tandem may be issued if the axles constitute a group articulated from a common point with an equalizing device which may be mechanically hydraulic or air. A single or auxiliary axle actuated separately or carrying weight transmitted to the road surface independently or interdependently regulated will not be considered in the determination of allowable loads for overweight moves. Since other states may require the use of auxiliary axles for some overweight movements, the permit office will allow such a vehicle to travel in Illinois provided the Department determines to its satisfaction all of the weight will be safely accommodated by those axles meeting Department requirements. Auxiliary axles activated by air or by hydraulic cylinder designed to shift the load from one set of axles to another may not be used.
- b) While auxiliary axles may register a uniform load distribution when the vehicle combination is motionless it has not been demonstrated to the satisfaction of the Department that the distribution will be maintained while the vehicle combination is moving. Unlike a standard tandem axle assembly, it has no means to ensure that axle loads will be equalized.
- c) Special vehicle combinations designed to transport extremely heavy objects may be used provided the equipment meets the following criteria:
  - a) Truck tractor with a three-axle drive tandem:
    - 1) All three axles must be of the same type of suspension - fair air spring.

2) Fire apparatus, equipment for snow and ice removal operations owned or operated by any governmental body, implements of husbandry temporarily operated or towed in a combination upon a highway, provided such combination does not consist of more than three vehicles or, in the case of hauling fresh perishable fruits or vegetables from farm to the point of first processing, not more than three wagons being towed by an implement of husbandry, are exempt from size, weight, and load limitations [625 ILCS 5/15-10.(c)] until Rev. Stat. 1985, ch. 95, § 1-7.5 is amended.

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from the other axles within the tandem. The suspension system on the drive tandem must be designed to distribute a relatively equal amount of weight to each axle at various loadings. A maximum differential of 2000 pounds between the heaviest and lightest axle is allowed.

B) For an air suspension system, the same air source must supply the air to all axles. No valves or other means of self-adjusting leveling valves or regulators are allowed between the air bags within the system.

b) 2) Semitrailers with four or more axles:

- A) All axles in a tandem grouping must have the same type of suspension - fair air spring - walking beam - etc.
- B) The suspension system must be designed to distribute a relatively equal amount of weight to each axle at various loadings. A maximum differential of 3000 pounds between the heaviest and lightest axles in a group is allowed.

C) Flip or detachable axles are allowed provided the method of attaching the axle or axles to the semitrailer is secure and the suspension system meets the requirements outlined in paragraph B.

B) For an air suspension system, the same air source must supply the air to all axles. No valves or other means of self-regulating leveling valves or regulators are allowed between the air bags within the system.

3) These or any other special vehicle combinations must be registered and certified with the permit office prior to obtaining permits to move extremely heavy objects in Illinois. The certification process includes a visual inspection of the unit to verify that the above criteria are met and generally a weighing at a State weigh station to document the performance of the suspension systems.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: OVERDIMENSION VEHICLES AND LOADS

Section 554.503 Exceptions to Legal Limitations

- a) Fire apparatus, equipment for snow and ice removal operations owned or operated by any governmental body, implements of husbandry temporarily operated or towed in a combination upon a highway, provided such combination does not consist of more than three vehicles or, in the case of hauling fresh perishable fruits or vegetables from farm to the point of first processing, not more than three wagons being towed by an implement of husbandry, are exempt from size, weight, and load limitations [625 ILCS 5/15-10.(c)] until Rev. Stat. 1985, ch. 95, § 1-7.5 is amended.





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Over-25-feet

d) ~~At~~ <sup>over-25-feet</sup> Movements shall be confined to a single traffic lane and shall be made in such a manner that the rest of the roadway will be open at all times so the flow of other traffic will not unnecessarily be obstructed. Whenever the width of the object or the roadway conditions require the use of more than a single traffic lane, other traffic will be given the right-of-way over this movement. The driver shall remove the vehicle from the roadway when necessary to allow an accumulation of traffic to pass or when so directed by a police officer.

e) ~~At~~ <sup>over-25-feet</sup> ~~All moves of vehicles or loads wider than 15 feet on non-freeways and 16 feet on freeways must normally be accompanied by police escort. Moves of vehicles or objects over 16 feet wide or over normally require an engineering investigation. A field investigation will not be required, for each of several identical moves, provided they are all completed within 30 days of the initial investigation. If a field investigation is required and the applicant does not request issuance of the permit within 30 days after he is notified the movement is feasible, it will be necessary that the Permit Office verify the movement is still acceptable with the District Office.~~

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 554.508 Overheight**

- The maximum overheight for which a permit may be issued is governed by overhead clearances. The height of the move should be measured from the uppermost point of the object, after it is loaded, to the ground. The practical maximum height is 15 feet.
- The maximum height authorized on Chicago area controlled access highways is 13 feet 6 inches.
- On all highways, a 3-inch clearance generally is specified to allow for bounce. Overheight movements that are extremely long may require additional clearance at underpasses where the approach pavement dips abruptly at the structure.
- The Permit Office does not check the vertical clearance of a route when the applicant indicates the height of the vehicle and load is "legal". If the applicant indicates the height is 13 feet 6 inches, which is the legal height, no additional clearance is provided when the vertical clearance of the route is checked.
- For movements at ~~in excess of~~ 16 feet or greater in height, the applicant shall perform a route survey, listing all overhead obstructions, to ensure the clearances will enable the object to pass under without difficulty.
- For movements in excess of 17 ~~to~~ feet in height, or greater, it is the responsibility of the applicant to contact all companies with overhead utility facilities and to indicate on the application the company,

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name of person contracted and telephone number. An engineering investigation, consisting of a route survey by District personnel, will normally be required.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 554.509 Maximum Size House-~~Trailer~~ or Mobile Home, Modular Home, or Oversize Storage Building**

The maximum size mobile home, ~~house-trailer~~ or modular home section, or oversize storage building combination that may be moved in Illinois is 16 ~~ft~~ feet 0 ~~4~~ inches wide, 15 feet high, and 99 95 feet long. This includes the towing vehicle.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 554.510 Mobile Home House-~~Trailer~~ Frames**

Permits for overdimension mobile home ~~house-trailer~~ frames loaded on regular or lowboy semitrailers or on specially designed vehicles that are normally accepted as semitrailers and are normally licensed as semitrailers may be issued. A permit may be issued to tow one mobile home ~~house-trailer~~ frame. A permit will not be issued for one or more frames loaded on another mobile home ~~house-trailer~~ frame or on a frame and wheel assembly.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 554.518 Building Sections**

- Regulations governing permits for the movement of prefabricated house or building sections fall within two categories. The governing category depends on the type of vehicle on which the module is transported. The governing categories are movement as a house trailer and movement as a building.
- Building sections moved under mobile home ~~house-trailer~~ regulations are those transported on a frame and wheel assembly, on a trailer, or on a vehicle closely resembling a mobile home ~~house-trailer~~ frame. The section must be specifically identified. The movement is made under the same restrictions, conditions, and provisions as a house trailer move and may not exceed 16 ~~ft~~ feet 0 ~~4~~ inches wide, 15 feet high, and 99 95 feet combination length.
- Building sections moved under building regulations are those transported on a regular lowboy semitrailer with a fifth wheel connection and with the axles near the rear of the semitrailer. A specially designed vehicle may also be used if it is normally

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considered as a semitrailer, with the axles near the rear, and it is normally licensed as a semitrailer.

- d) Permits for multiple moves in excess of 14 feet 4 inches wide over the same route or from a central point will not be issued without exceptional justification of need.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: OVERWEIGHT VEHICLES AND LOADS

## Section 554.601 Scope

- a) Permits may be issued for overweight vehicles and objects if they have been reasonably disassembled [625 ILCS 5/15-30] ~~Ill-Rev-Stat--1985, 6H--95-1/27-par-35-3617~~ and the highway system can carry the weight. Overweight moves may consist of only a single object. Overweight equipment may be moved with normal components attached.

- b) The Permit Office may require verification of the weight of the vehicle and load prior to issuing a permit when there is reason to believe the requested weight is incorrect. Permits are required for any overweight movement to or from a weigh scale over State highways for preliminary weighing of the vehicle and load.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.607 Movement to a Designated Scale

Sections 15-301(b) and (f) of the Illinois Size and Weight Law allow the permittee to travel to a certified scale to verify the axle and gross weights of an overweight load when he is uncertain of the correct weights. The following conditions apply.

- The permittee must, on his application, request that he be routed to a certified scale, the location of which he has designated on the application.
- The scale must be the nearest scale to the permittee's origin that has been certified by the Illinois Department of Agriculture (State weigh stations included).  
"Nearest scale" for permit loads with weights not exceeding practical maximums is defined as a scale within 25 miles of the permitted load's origin.
- The permittee must indicate the requested routing.
- If any routes under the jurisdiction of local agencies are included in the routing, the permittee must provide evidence that he has secured approval from the local authority having jurisdiction.
- Due to the volume of permits handled, the Permit Office cannot assist the permittee in determining the closest certified scale. By

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approving the routing to the scale as requested by the applicant and indicating the weight of the load is to be checked at a designated scale, the Permit Office in no way implies that it is the closest certified scale to the permittee's origin. If a police officer finds there is a closer certified scale, he may require the driver to travel to that scale; however, it is that officer's responsibility to verify the routes can accommodate the load.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.608 Status of Permittee While Enroute to the Scale

- a) When the permittee has requested travel to a designated scale and the routing and scale have been specified in the permit by the Permit Office the permittee shall be deemed in compliance with the weight provisions of the permit provided the axle or gross weights do not exceed any of the permitted limits by more than the following amounts:-

- 1) Single axle 2,000 pounds
- 2) Tandem axle 3,000 pounds
- 3) Gross 5,000 pounds

- b) If the permittee is stopped by a police officer while enroute to the scale specified in the permit, the police officer may accompany the permittee to the designated scale and witness the weighing, or the officer may direct the permittee to a closer certified scale. However, the officer assumes responsibility for ensuring the route he selects to the alternate scale can safely accommodate the load. The officer may contact the Permit Office if he is unsure of the capacity of the route.

- c) If after checking the weights at the scale, the permittee finds the weights are within the limits indicated on the permit, he may proceed to his destination by the routes indicated in the permit. However, the permittee must still stop at all open weigh stations along his route and is subject to all normal enforcement action.

- d) If the permittee finds the load exceeds one or more of the limits specified in the permit, but is within the tolerances indicated in subsection ~~paragraph~~ (a), he must contact the Permit Office and either obtain a revised permit as provided in Section 554.211 of this Part, or reduce his weights to those specified in his permit before proceeding. Under the provisions of Section 15-301(f) of the Illinois Size and Weight Law, he is not subject to arrest for being overweight while at or enroute to the designated scale unless he is found to be in excess of his permit limits by more than the weight tolerance in subsection ~~paragraph~~ (a).

- e) If the load exceeds one or more of the limits specified in the permit by an amount in excess of the tolerances indicated in subsection ~~paragraph~~ (a), the permittee is subject to arrest if a police officer

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witnesses the weighing or if the permittee moves the load from the scale premises without either first adjusting the load to within the limits specified in the permit or obtaining a new permit that covers the movement. There shall be no refund of fees for any permit so exceeded, nor will there be any reduction in the fee for the new permit.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: SPECIFIC POLICIES

## Section 554.710 Military Moves by Service Personnel

a) All movements by the Armed Forces and the National Guard must be in compliance with the size and weight limits contained in Sections 15-102, 15-103, 15-107, and 15-111 of the the Illinois Vehicle Code, unless an authorization has been issued by the Permit Office or an emergency has been officially declared by the President or Governor. In the event an official emergency is declared, telephone contact should be made with the Permit Office (217/782-6271) during regular office hours or the Communications Center (217/782-2937) at other times, for assistance with the routing.

b) If it is necessary to move a vehicle or load that cannot be reasonably dismantled or disassembled and transported within the legal size and weight limits, an application for authorization to make the movement must be submitted to the Permit Office. Application may be on Form BT 1928, Department of Defense standard forms, by letter, or by electronic communications, or phone. If the Permit Office determines the move can be made in safety without damaging the highway system, a no-cost authorization will be issued [625 ILCS 5/15-301] ~~4-11-1985-Rev.~~ ~~CH-95-127-Per-15-301t.~~

c) The Permit Office will review requests for routine military convoy movements, which are submitted on standard military forms, and issue a blanket no-cost authorization for all approved oversize and overweight vehicles and loads that are included. These authorizations do not relieve the Armed Forces or National Guard from overall responsibility for the convoy movement.

d) The branch of the Armed Forces or National Guard authorizing oversize or overweight moves without approval of the Permit Office assumes full liability for accidents or damages that may be caused directly or indirectly by reason of the movements. While the driver is not subject to arrest, any unauthorized shipment found to be in violation of the legal size and weight limits shall not be allowed to proceed until the excess load is shifted or removed, or the Permit Office approves the movement.

Source: Amended at 11. Req. ineffective

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## SUBPART H: EMERGENCIES AND HAZARDOUS MATERIALS

## Section 554.802 Mobile Home House-Trailer Emergency Moves

In the event an area has been declared a disaster area by the President or Governor, house trailers may be authorized to move into the area without a standard permit. The house trailers may not exceed 12 feet wide and 85 feet combination length. They must be owned by the victims of the disaster or otherwise be brought into the area for relief purposes. If the units are furnished by the Federal Department of Housing and Urban Development (HUD) the permit office will generally allow movement in conformance with the American Association of State Highway and Transportation Officials' (AASHTO) National Policy. However, the permit office may include additional restrictions in its authorization.

(Source: Amended at 19 Ill. Reg. , effective

## SUBPART I: FEES

## Section 554.907 Supplemental Permit Fees

The Permit Office shall collect a fee of \$5.00 for each supplemental permit. In addition, if the supplemental permit provides for an increase in size, weight, or mileage, those additional fees will be charged. However, no credit can be given for fees paid if dimensions, weights, or mileages are reduced. A handling fee of \$50.00 is added for supplements outside of practical maximums.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 554.908 Service Charge for Special Handling

When special transmission of permits by electronic communications equipment is requested by an applicant, a service charge in an amount sufficient to defray the cost to the Permit Office will be charged. The current charge is \$1.00 for each permit. Permits may be transmitted by ~~State-leased~~ ~~telex~~ ~~fax~~ ~~teletype~~ ~~telex~~ or facsimile copy (FAX).

| (Source: Amended at 19 | Ill. | Reg. | effective |
|------------------------|------|------|-----------|
|                        |      |      |           |

## Section 554.910 Fee for Engineering Inspections and Investigations

The following additional fees will be charged for engineering inspections and investigations by Department personnel that may be necessary due to the size or



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weight of the load.

- a) For normal engineering inspection and investigations, all or a portion of the following:

- 1) Bridge structural analysis - \$40 per hour plus computer costs.
  - 2) Pavement structural analysis - \$40 per hour.
  - 3) Field investigation of movement feasibility - \$40 per hour.
  - 4) Accompanying the move - \$40 per hour.
  - 5) Interim or final inspection for damages - \$40 per hour.
- b) For unusually large movements that may require extensive analyses, inspections, and investigations by Department personnel, a written agreement will be executed by the applicant and the Department as to the extent of special charges. The following rates will be utilized unless otherwise stipulated.

- 1) Bridge structural analysis - \$40 per hour.
  - 2) Pavement structural analysis - \$40 per hour.
  - 3) Field investigations of movement feasibility, for each Department employee - \$40 per hour.
  - 4) Accompanying the move, for each Department employee - \$40 per hour.
  - 5) Interim or final inspections, for each Department employee - \$40 per hour.
  - 6) Computer usage time will be at the rate charged to the Department by the Department of Central Management Services.
- c) Fees for engineering services performed by personnel outside the Department shall be paid directly by the applicant.

(Source: Amended at 19 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Hospital Services

- 2) Code Citation: 89 Ill. Adm. Code 148

- 3) Section Numbers: Adopted Action:

148.175 New Section  
148.240 Amendment

- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]

- 5) Effective Date of Amendments: September 5, 1995

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these Amendments contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: September 5, 1995

- 9) Notice of Proposal Published in Illinois Register: May 12, 1995 (19 Ill. Reg. 6449)

- 10) Has JC&R issued a Statement of Objections to these Adopted Amendments? No

- 11) Differences between proposal and final version: The following changes have been made in the proposed amendments.

Technical changes have been made in the Authority Note following the initial section outline.

Section 148.175

In subsection (a)(2), the reference to "[60 ILCS 55]" has been changed to "[60 ILCS 1701]."

In subsection (c)(2), the four references to "May 15, 1995" have been changed to "May 12, 1995".

In subsection (c)(3), the cross-reference to "Section 148.120(k)" has been changed to "Section 148.120(j)".

In subsection (d), the reference to "May 15, 1995" has been changed to "May 12, 1995".

Section 148.240

In subsection (e), the period after "Hospital Utilization Control" has

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been removed, and the remaining text has been moved into a separate paragraph.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these Amendments replace Emergency Amendments currently in effect?  
Yes

14) Are there any Amendments pending on this Part? Yes

| Sections | Proposed Action | Illinois Register Citation         |
|----------|-----------------|------------------------------------|
| 148.120  | Amendment       | July 21, 1995 (19 Ill. Reg. 10387) |
| 148.140  | Amendment       | July 21, 1995 (19 Ill. Reg. 10387) |
| 148.160  | Amendment       | July 21, 1995 (19 Ill. Reg. 10387) |
| 148.170  | Amendment       | July 21, 1995 (19 Ill. Reg. 10387) |
| 148.295  | New Section     | July 21, 1995 (19 Ill. Reg. 10387) |
| 148.310  | Amendment       | July 21, 1995 (19 Ill. Reg. 10387) |

15) Summary and Purpose of Amendments: These amendments to the Department's rules pertaining to hospital services allow hospitals organized under the Town Hospital Act to be eligible for supplemental disproportionate share hospital (DSH) adjustments. These eligible hospitals are public facilities in towns having populations of fewer than 500,000 persons. According to the Town Hospital Act, such a town may levy a tax to build, maintain and operate a public hospital. These amendments will provide for the efficient use of local government funds to ensure maximum economic benefits for qualified hospitals.

The Department is initiating this action to maximize federal financing benefits to town hospitals as permitted by Illinois' federal DSH spending limitations. The supplemental DSH payments for town hospitals shall be in addition to the reimbursements currently paid for services provided by these facilities. The supplemental DSH payment amount made to each hospital will be determined according to a methodology consistent with current DSH formulas and will include mechanisms to ensure compliance with OBRA '93 guidelines and federal DSH spending limitations.

These amendments are expected to result in an annual increase in Department expenditures of approximately \$2 million.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones  
Address: Bureau of Rules and Regulations  
Illinois Department of Public Aid

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100 South Grand Avenue East, Third Floor  
Springfield, Illinois 62762  
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148  
HOSPITAL SERVICES

|         |   |
|---------|---|
| Section | Hospital Services   |
| 148.10  | Participations and Applicability  |
| 148.20  | Definitions and Applicability   |
| 148.25  | General Requirements  |
| 148.30  | Special Requirements  |
| 148.40  | Covered Hospital Services   |
| 148.50  | Services Not Covered as Hospital Services   |
| 148.60  | Limitation On Hospital Services   |
| 148.70  | Organ Transplants Services Covered Under Medicaid (Repealed)  |
| 148.80  | Organ Transplant Services   |
| 148.82  | Heart Transplants (Repealed)  |
| 148.90  | Liver Transplants (Repealed)  |
| 148.100 | Bone Marrow Transplants (Repealed)  |
| 148.110 | Disproportionate Share Hospital (DSH) Adjustments   |
| 148.120 | Outlier Adjustments for Exceptionally Costly Stays  |
| 148.130 | Hospital Outpatient and Clinic Services   |
| 148.140 | Public Law 103-66 Requirements  |
| 148.150 | Payment Methodology for County-Owned Hospitals in a County with a Population of Over Three Million                    |
| 148.160 | Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act                             |
| 148.170 | Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act           |
| 148.175 | Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting |
| 148.180 | Copayments  |
| 148.190 | Alternate Reimbursement Systems   |
| 148.200 | Filing Cost Reports   |
| 148.210 | Pre September 1, 1991 Admissions  |
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| 148.230 | Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements                       |
| 148.240 | Determination of Alternate Payment Rates to Certain Exempt Hospitals  |
| 148.250 | Calculation and Definitions of Inpatient Per Diem Rates   |
| 148.260 | Determination of Alternate Cost Per Diem Rates for All Hospitals;   |
| 148.270 | Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals                        |
| 148.280 | Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements              |
| 148.290 | Adjustments and Reductions to Total Payments  |

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| 148.300 | Payment   |
| 148.310 | Review Procedure  |
| 148.320 | Alternatives  |
| 148.330 | Exemptions  |
| 148.340 | Subacute Alcoholism and Substance Abuse Treatment Services                  |
| 148.350 | Definitions   |
| 148.360 | Types of Subacute Alcoholism and Substance Abuse Treatment Services         |
| 148.368 | Volume Adjustment (Repealed)  |
| 148.370 | Payment for Subacute Alcoholism and Substance Abuse Treatment Services      |
| 148-373 | Utilization-(Repealed)  |
| 148-376 | Utilization-Case-Mix-and-Discretionary-Funds-(Repealed)                     |
| 148.380 | Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services |
| 148.390 | Hearings  |
| 148.400 | Special Hospital Reporting Requirements                                     |

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and VII and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg.



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17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective July 14, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective SEP 05 1995.

(Source: Added at 19 Ill. Reg. 13009, effective SEP 05 1995)

Section 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act

a) The Department shall make supplemental disproportionate share (DSH) payments in accordance with this Section to hospitals that meet all of the following requirements:

1) Qualify for DSH payment adjustments in accordance with Section 148.120(a).

2) Are organized under the Town Hospital Act (60 ILCS 55).

3) Have entered into an agreement, approved by the Director.

b) Review Procedure

The review procedure shall be in accordance with Section 148.310.

c) Applicable Adjustments for Disproportionate Share Hospitals (DSH)

1) The criteria and methodology for making applicable adjustments to government owned DSH hospitals as described in subsection (a) above, shall be in accordance with Section 148.120.

2) Effective with dates of service on or after May 12, 1995, in addition to the DSH payment adjustments described in Section 148.120, hospitals reimbursed under this Section shall be eligible for supplemental DSH payments. Effective with admissions on or after May 12, 1995, supplemental DSH payments for hospitals reimbursed under this Section shall be calculated by multiplying the sum of the hospital's alternate cost per diem rate in effect on May 12, 1995, as described in Sections 148.260, 148.270, and 89 Ill. Adm. Code 152.200, and the calculated disproportionate share per diem payment adjustment in effect on May 12, 1995, as described in Section 148.120, by the hospital's percentage of charges which are not reimbursed by a third party payor for the period of August 1, 1991 through July 31, 1992. The resulting product shall be multiplied by 6.25 and this amount shall be the supplemental DSH payment adjustment which shall be paid on a per diem basis and shall be applied to each covered day of care provided. The supplemental DSH payments cannot exceed the amount the hospital certifies as costs eligible for Federal Financial Participation under Title XIX of the Social Security Act.

3) DSH adjustments made under this subsection are subject to the DSH adjustment limitations described in Section 148.120.

d) Rate Period

The rate period for hospitals reimbursed under this Section shall be

the 12 month period beginning on October 1 of the year and ending September 30 of the following year, except for the period of May 12, 1995 through September 30, 1995.

(Source: Added at 19 Ill. Reg. 13009, effective SEP 05 1995)

Section 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements

a) Utilization Review

The Department, or its designee, may conduct pre-admission, concurrent, prepayment, and postpayment reviews of:

1) The quality and nature of the utilization of health services;

2) The medical necessity, reasonableness and appropriateness of inpatient hospital care for which additional payment is sought under outlier provisions;

3) The validity of the hospital's diagnostic and procedural information;

4) The completeness, adequacy and quality of the services furnished in the hospital; or

5) Other medical or other practices with respect to program participants or billing for services furnished to program participants.

b) Medical Review Notification

Hospitals shall be notified at least 30 days in advance of any pre-admission, concurrent, or prepayment review requirements imposed by the Department.

c) Prepayment Review

The Department may require hospitals to submit claims to the Department for prepayment review and approval prior to rendering payment for services provided. Such prepayment review requirements will be focused on areas where the Department has substantial reason to suspect abuse (e.g., hospital billings deviate from the norm). The review may be conducted by the Department or its designated peer review agents. Prepayment review shall be used to determine the appropriateness and medical necessity of the inpatient stay. Payment shall not be made unless the medical necessity of the inpatient stay can be documented. The Department shall notify the hospital by letter or Department Informational Notice of the designated services which shall be subject to prepayment review. The prepayment review requirement shall commence 30 days after the Department has given notice to the hospital of the designated services which shall be reviewed.

d) Postpayment Review

Postpayment review shall be conducted on a random sample of hospital stays following reimbursement to the hospital for the care provided. The Department may also conduct postpayment review on specific types

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## of care.

## e) Hospital Utilization Control-

Hospitals and distinct part units that participate in Medicare (Title XVIII) must use the same utilization review standards and procedures and review committee for Medicaid as they use for Medicare. Hospitals and distinct part units that do not participate in Medicare (Title XVIII) must meet the utilization review plan requirements in 42 CFR, Ch. IV, Part 456, Subparts C, D, or E (October 1, 1991). Utilization control requirements for inpatient psychiatric hospital care in a psychiatric hospital, as defined in 89 Ill. Adm. Code 149.50(c)(1) shall be in accordance with federal regulations in 42 CFR, Ch. IV, Part 456, Subpart G (October 1, 1991).

## f) Denial of Payment as a Result of Admission, Length of Stay, Transfers and Quality Review

1) If the Department determines that a hospital has misrepresented admissions, length of stay, discharges, or billing information, or has taken an action that results in the unnecessary admission or inappropriate discharge of a program participant, unnecessary multiple admissions of a program participant, unnecessary transfer of a program participant, or other inappropriate medical or other practices with respect to program participants or billing for services furnished to program participants, the Department may, as appropriate:

A) Deny payment (in whole or in part) with respect to inpatient hospital services provided with respect to such an unnecessary admission, inappropriate length of stay or discharge, subsequent readmission or transfer of an individual.

B) Require the hospital to take action necessary to prevent or correct the inappropriate practice.

C) Perform prepayment review in accordance with Section 148.240(c).

2) When payment with respect to the discharge of an individual patient is denied by the Department or its designee, under subsection(f)(1)(A), a reconsideration will be provided within 30 days upon the request of a practitioner or provider if such request is the result of the designee's own medical necessity or appropriateness of care denial determination and is received within 60 days of the Advisory Notice. The date of the Advisory Notice is counted as day one.

3) A determination under subsection(f)(1) above, if it is related to a pattern of inappropriate admissions, length of stay and billing practices that has the effect of circumventing the prospective payment system, may result in:

A) withholding Medicaid payment (in full or in part) to the hospital until the hospital provides adequate assurances of compliance; or

B) termination of the hospital's Provider Agreement.

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## g) Furnishing of Inpatient Hospital Services Directly or Under Arrangements

1) The applicable payments made under Sections 148.82, 148.120, 148.130, 148.150, 148.160, 148.170, 148.175 and 148.250 through 148.300 are payment in full for all inpatient hospital services other than for the services of nonhospital-based physicians to individual program participants and the services of certain hospital-based physicians as described in subsections (g)(1)(B)(i) through (g)(1)(B)(v) below.

A) Hospital-based physicians who may not bill separately on a fee-for-service basis:

i) A physician whose salary is included in the hospital's cost report for direct patient care may not bill separately on a fee-for-services basis.

ii) A teaching physician who provides direct patient care may not bill separately on a fee-for-service basis if the salary paid to the teaching physician by the hospital or other institution includes a component for treatment services.

B) Hospital-based physicians who may bill separately on a fee-for-service basis:

i) A physician whose salary is not included in the hospital's cost report for direct patient care may bill separately on a fee-for-service basis.

ii) A teaching physician who provides direct patient care may bill separately on a fee-for-service basis if the salary paid to the teaching physician by the hospital or other institution does not include a component for treatment services.

iii) A resident may bill separately on a fee-for-service basis when, by the terms of his or her contract with the hospital, he or she is permitted to and does bill private patients and collect and retain the payments received for those services.

iv) A hospital-based specialist who is salaried, with the cost of his or her services included in the hospital reimbursement costs, may bill separately on a fee-for-service basis when, by the terms of his or her contract with the hospital, he or she may charge for professional services and do, in fact, bill private patients and collect and retain the payments received.

v) A physician holding a nonteaching administrative or staff position in a hospital or medical school may bill separately on a fee-for-service basis to the extent that he or she maintains a private practice and bills private patients and collects and retains payments made.

2) Charges are to be submitted on a fee-for-service basis only when

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the physician seeking reimbursement has been personally involved in the services being provided. In the case of surgery, it means presence in the operating room, performing or supervising the major phases of the operation, with full and immediate responsibility for all actions performed as a part of the surgical treatment.

(Source: Amended 19 Ill. Reg. 13009, effective SEP 05 1995)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Adopted Action:  
140.27 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: September 5, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: September 5, 1995
- 9) Notice of Proposal Published in Illinois Register: May 5, 1995 (19 Ill. Reg. 6268)
- 10) Has JCAR issued a Statement of Objections to these Adopted Amendments? No
- 11) Differences between proposal and final version: The following changes have been made in the proposed amendments.  
Technical changes have been made in the Authority Note following the initial section outline.  
In the first line of subsection (b), "may use his right to receive" has been changed to "may use his or her right to receive".  
In the first sentence of subsection (c), "payments of grants he/she has" has been changed to "payments of grants he or she has".  
In subsection (c), the new language which begins, "Each authority may utilize" has been changed to "Each Authority may utilize".  
Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes  
Will these Amendments replace Emergency Amendments currently in effect? No
- 14) Are there any Amendments pending on this Part? Yes



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|         |           |                                      |
|---------|-----------|--------------------------------------|
| 140.3   | Amendment | June 23, 1995 (19 Ill. Reg. 8066)    |
| 140.5   | Amendment | June 23, 1995 (19 Ill. Reg. 8066)    |
| 140.7   | Amendment | August 25, 1995 (19 Ill. Reg. 12210) |
| 140.9   | Amendment | August 25, 1995 (19 Ill. Reg. 12210) |
| 140.80  | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.82  | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.84  | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.440 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.443 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.444 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.445 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.446 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.447 | Amendment | July 7, 1995 (19 Ill. Reg. 8938)     |
| 140.461 | Amendment | June 16, 1995 (19 Ill. Reg. 7806)    |
| 140.500 | Amendment | July 14, 1995 (19 Ill. Reg. 9386)    |
| 140.504 | Amendment | July 14, 1995 (19 Ill. Reg. 9386)    |
| 140.505 | Repeal    | July 14, 1995 (19 Ill. Reg. 9386)    |
| 140.535 | Amendment | July 21, 1995 (19 Ill. Reg. 10390)   |
| 140.642 | Amendment | April 14, 1995 (19 Ill. Reg. 5397)   |

15) Summary and Purpose of Amendments: These amendments allow for the assignment of vendor payments to the Illinois Development Finance Authority. The current provisions in Section 140.27 permit a medical vendor to assign a security interest in any financial aid, vendor payment or money payments of grants that he or she has a right to receive, to the Illinois Health Facilities Authority relative to any financing program undertaken by that Authority. Under these provisions, a medical vendor can authorize the Department to issue payments for Medicaid services directly to the Illinois Health Facilities Authority. The proposed amendments recognize the Illinois Development Finance Authority as an entity to whom vendor payments can be assigned in the same manner. These amendments will not result in any changes regarding coverage and reimbursement for medical services.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Joanne Jones  
Address: Bureau of Rules and Regulations  
 Illinois Department of Public Aid  
 100 South Grand Avenue East, Third Floor  
 Springfield, Illinois 62762  
Telephone: (217) 524-3215

The full text of the Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES  
 CHAPTER I: DEPARTMENT OF PUBLIC AID  
 SUBCHAPTER d: MEDICAL PROGRAMS

PART 140  
 MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

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| Section | Incorporation By Reference   |
| 140.1   | Medical Assistance Programs  |
| 140.2   | Covered Services Under the Medical Assistance Programs for AFDC, AFDC-WANG, AABD, AABD-WANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Children Under Age Eight Who Do Not Qualify as Mandatory Categorically Needy and Disabled Persons Under Age 21 Who May Qualify for Medicaid and In-Home Care (Model Waiver) |
| 140.4   | Covered Medical Services Under AFDC-WANG for non-pregnant persons who are 18 years of age or older (Repealed)  |
| 140.5   | Covered Medical Services Under GA  |
| 140.6   | Medical Services Not Covered   |
| 140.7   | Medical Assistance Provided to Individuals Under the Age of Eight Who Do Not Qualify for AFDC and Children Under Age Eight   |
| 140.8   | Medical Assistance For Qualified Severely Impaired Individuals   |
| 140.9   | Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-WANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy   |
| 140.10  | Medical Assistance Provided to Incarcerated Persons  |
| Section | SUBPART B: MEDICAL PROVIDER PARTICIPATION  |
| 140.11  | Enrollment Conditions for Medical Providers  |
| 140.12  | Participation Requirements for Medical Providers   |
| 140.13  | Definitions  |
| 140.14  | Denial of Application to Participate in the Medical Assistance Program   |
| 140.15  | Recovery of Money  |
| 140.16  | Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program   |
| 140.17  | Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program  |
| 140.18  | Effect of Termination on Individuals Associated with Vendor  |
| 140.19  | Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring   |
| 140.20  | Submittal of Claims  |
| 140.21  | Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)  |

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140.22 Magnetic Tape Billings  
 140.23 Payment of Claims  
 140.24 Payment Procedures  
 140.25 Overpayment or Underpayment of Claims  
 140.26 Payment to Factors Prohibited  
 140.27 Assignment of Vendor Payments  
 140.28 Record Requirements for Medical Providers  
 140.30 Audits  
 140.31 Emergency Services Audits  
 140.32 Prohibition on Participation, and Special Permission for Participation  
 140.33 Publication of List of Terminated, Suspended or Barred Entities  
 140.35 False Reporting and Other Fraudulent Activities  
 140.40 Prior Approval for Medical Services or Items  
 140.41 Prior Approval in Cases of Emergency  
 140.42 Limitation on Prior Approval  
 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained  
 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice  
 140.72 Voucher Advance Payment and Expedited Payments  
 140.73 Drug Manual (Recodified)  
 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section  
 140.80 Hospital Provider Fund  
 140.82 Developmentally Disabled Care Provider Fund  
 140.84 Long Term Care Provider Fund  
 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund  
 140.95 Hospital Services Trust Fund  
 140.96 General Requirements (Recodified)  
 140.97 Special Requirements (Recodified)  
 140.98 Covered Hospital Services (Recodified)  
 140.99 Hospital Services Not Covered (Recodified)  
 140.100 Limitation On Hospital Services (Recodified)  
 140.101 Transplants (Recodified)  
 140.102 Heart Transplants (Recodified)  
 140.103 Liver Transplants (Recodified)  
 140.104 Bone Marrow Transplants (Recodified)  
 140.110 Disproportionate Share Hospital Adjustments (Recodified)  
 140.116 Payment for Inpatient Services for GA (Recodified)  
 140.117 Hospital Outpatient and Clinic Services (Recodified)  
 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)  
 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)  
 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)  
 140.203 Limits on Length of Stay by Diagnosis (Recodified)

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140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)  
 140.350 Copayments (Recodified)  
 140.360 Payment Methodology (Recodified)  
 140.361 Non-Participating Hospitals (Recodified)  
 140.362 Pre July 1, 1989 Services (Recodified)  
 140.363 Post June 30, 1989 Services (Recodified)  
 140.364 Prepayment Review (Recodified)  
 140.365 Base Year Costs (Recodified)  
 140.366 Restructuring Adjustment (Recodified)  
 140.367 Inflation Adjustment (Recodified)  
 140.368 Volume Adjustment (Repealed)  
 140.369 Groupings (Recodified)  
 140.370 Rate Calculation (Recodified)  
 140.371 Payment (Recodified)  
 140.372 Review Procedure (Recodified)  
 140.373 Utilization (Repealed)  
 140.374 Alternatives (Recodified)  
 140.375 Exemptions (Recodified)  
 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)  
 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.391 Definitions (Recodified)  
 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)  
 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section  
 140.400 Payment to Practitioners, Nurses and Laboratories  
 140.410 Physicians' Services  
 140.411 Covered Services By Physicians  
 140.412 Services Not Covered By Physicians  
 140.413 Limitation on Physician Services  
 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians  
 140.416 Optometric Services and Materials  
 140.417 Limitations on Optometric Services  
 140.418 Department of Corrections Laboratory  
 140.420 Dental Services  
 140.421 Limitations on Dental Services  
 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists  
 140.425 Podiatry Services

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140.426 Limitations on Podiatry Services  
140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry  
140.428 Chiropractic Services  
140.429 Limitations on Chiropractic Services (Repealed)  
140.430 Independent Laboratory Services  
140.431 Services Not Covered by Independent Laboratory  
140.432 Limitations on Independent Laboratory Services  
140.433 Payment for Laboratory Services  
140.434 Record Requirements for Independent Laboratories  
140.435 Nurse Services  
140.436 Limitations on Nurse Services  
140.440 Pharmacy Services  
140.441 Pharmacy Services Not Covered  
140.442 Prior Approval of Prescriptions  
140.443 Filling of Prescriptions  
140.444 Compounded Prescriptions  
140.445 Prescription Items (Not Compounded)  
140.446 Over-the-Counter Items  
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140.452 Mental Health Clinic Services  
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140.454 Types of Mental Health Clinic Services  
140.455 Payment for Mental Health Clinic Services  
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140.457 Therapy Services  
140.458 Prior Approval for Therapy Services  
140.459 Payment for Therapy Services  
140.460 Clinic Services  
140.461 Clinic Participation, Data and Certification Requirements  
140.462 Covered Services in Clinics  
140.463 Clinic Service Payment  
140.464 Healthy Moms/Healthy Kids Managed Care Clinics  
140.465 Speech and Hearing Clinics (Repealed)  
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140.477 Limitations on Equipment, Supplies and Prosthetic Devices  
140.478 Prior Approval for Medical Equipment, Supplies and Prosthetic Devices  
140.479 Limitations, Medical Supplies  
140.480 Equipment Rental Limitations  
140.481 Payment for Medical Equipment, Supplies and Prosthetic Devices  
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140.483 Limitations on Family Planning Services  
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140.485 Healthy Kids Program  
140.486 Limitations on Medichex Services (Repealed)  
140.487 Healthy Kids Program Timeliness Standards  
140.488 Periodicity Schedule, Immunizations and Diagnostic Laboratory Procedures  
140.490 Medical Transportation  
140.491 Limitations on Medical Transportation  
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140.502 Cessation of Payment at Federal Direction  
140.503 Cessation of Payment for Improper Level of Care  
140.504 Cessation of Payment Because of Termination of Facility  
140.505 Continuation of Payment Because of Threat To Life  
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140.510 Determination of Need for Group Care  
140.511 Long Term Care Services Covered by Department Payment  
140.512 Utilization Control  
140.513 Utilization Review Plan (Repealed)  
140.514 Certifications and Recertifications of Care  
140.515 Management of Recipient Funds--Personal Allowance Funds  
140.516 Recipient Management of Funds  
140.517 Correspondent Management of Funds  
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140.520 Management of Recipient Funds--Local Office Responsibility  
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140.522 Reconciliation of Recipient Funds  
140.523 Bed Reserves  
140.524 Cessation of Payment Due to Loss of License  
140.525 Quality Incentive Program (QUIP) Payment Levels  
140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)

## SUBPART E: GROUP CARE



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| 140.527 | Quality Incentive Survey (Repealed)   |
| 140.528 | Payment of Quality Incentive (Repealed)   |
| 140.529 | Reviews (Repealed)  |
| 140.530 | Basis of Payment for Long Term Care Services                                    |
| 140.531 | General Service Costs   |
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| 140.533 | General Administration Costs  |
| 140.534 | Ownership Costs   |
| 140.535 | Costs for Interest, Taxes and Rent  |
| 140.536 | Organization and Pre-Operating Costs  |
| 140.537 | Payments to Related Organizations   |
| 140.538 | Special Costs   |
| 140.539 | Nurse's Aide Training and Testing   |
| 140.540 | Costs Associated With Nursing Home Care Reform Act and Implementing Regulations |
| 140.541 | Salaries Paid to Owners or Related Parties                                      |
| 140.542 | Cost Reports-Filing Requirements  |
| 140.543 | Time Standards for Filing Cost Reports  |
| 140.544 | Access to Cost Reports (Repealed)   |
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AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. 3] and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI, VII and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22037, effective October 29, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days;

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amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.913 thru 140.915 recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.206 and 147.207; amended at 11 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12

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Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17299, effective October 12, 1990; amended at 14 Ill. Reg.



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18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a

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maximum of 150 days; emergency amendment suspended effective October 12, 1993; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective ~~SEP 5 1995~~ SEP 5 1995

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## SUBPART B: MEDICAL PROVIDER PARTICIPATION

## Section 140.27 Assignment of Vendor Payments

- a) Except as provided in this Section, vendor payments and the right to receive such payments are absolutely inalienable by assignment, sale, attachment, garnishment or otherwise.
- b) A medical vendor may use his or her right to receive vendor payments as collateral for loans from banks, credit unions, and savings and loan associations chartered under or trust companies issued certificates of authority under Chapter 205 of the Illinois Compiled Statutes, provided that such arrangements:
- 1) shall not require the Department to issue the payment directly to any person of entity other than the vendor; and
  - 2) shall not constitute any activities prohibited by the provisions of 42 U.S.C.A. 1396(a)(32) (1983) and Section 140.26 ("Payment to Factors Prohibited").
- c) A medical vendor or other vendor or service provider may assign, reassign, sell, pledge or grant a security interest in any such financial aid, vendor payment or money payments of grants he or she has a right to receive to the Illinois Health Facilities Authority in connection with any financing program undertaken by that Authority, or to the Illinois Development Finance Authority in connection with any financing program undertaken by that Authority. Each Authority may utilize such authority ~~or to~~ an agent or trustee accepting, accomplishing, effectuating or realizing upon any such assignment, reassignment, sale, pledge or grant on such Authority's behalf; and

## DEPARTMENT OF PUBLIC AID

## NOTICE OF ADOPTED AMENDMENTS

such arrangements may provide that the Department shall issue the payment directly to the Illinois Health Facilities Authority, Illinois Development Finance Authority or to any such agent or trustee.

- d) A medical vendor that is a governmental entity or is exempt from income reporting under Section 1.6041-3(c) of the federal income tax regulations (26 CFR 1.6041-3(c)) and that provides Healthy Kids Program services under Section 140.485(d) may assign its interest in payment from the Department to a local school district with which the provider has an arrangement to provide such services. Under such assignment, with Department approval, payment will be made directly to the school district.

(Source: Amended 19 Ill. Reg. 13019, effective

05 1995

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## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Driving and Parking
- 2) Code Citation: 92 Ill. Adm. Code 397
- 3) Section Numbers: 397.1020 Adopted Action:  
Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].
- 5) Effective date of rules: August 30, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) Date filed in agency's principal office: August 28, 1995

9) Notice of proposal published in Illinois Register: April 28, 1995, 19 Ill. Reg. 6153

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:

The Department underlined the last sentence on the Notice page.

The Department corrected the statutory references on the Notice page and in the Authority Note.

The Department deleted the word "as" from the last entry in the Main Source Note.

The Section number was corrected on the Notice page at question #3.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department is updating the date of incorporation by reference of 49 CFR

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397 as of October 1, 1994 and including the federal rulemaking adopted at 59 FR 63921, December 12, 1994.

The Department's regulations will incorporate changes made in the following Docket:

(59 FR 63921, December 12, 1994) amends the regulations to provide nomenclature changes that will revise and update certain regulatory references and terms.

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen, Regulations and Training Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER 1: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER 4: MOTOR CARRIER SAFETY REGULATIONS

PART 397  
DRIVING AND PARKING

Section  
397.1000 General  
397.1010 Application  
397.1020 Incorporation By Reference of 49 CFR 397

AUTHORITY: Implementing the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397.Subchapter c at 14 Ill. Reg. 3281; Part repealed, new Part adopted at 14 Ill. Reg. 15496, effective September 10, 1990; amended at 15 Ill. Reg. 13158, effective August 21, 1991; amended at 18 Ill. Reg. 736, effective January 11, 1994; amended at 19 Ill. Reg. 13035, effective AUG 30 1995.

## Section 397.1020 Incorporation By Reference of 49 CFR 397

a) The Department incorporates "Driving and Parking" (49 CFR 397) by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1994 ~~1992~~, as amended at 59 FR 63921, December 12, 1994, subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated.

b) Section 397.1 is deleted and not incorporated.

c) Section 397.2 is deleted and not incorporated.

d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

e) The following addition to 49 CFR 397 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for violations of the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended 13035, 19 Ill. Reg. 13035, effective



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Driving of Motor Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 392
- 3) Section Numbers: Adopted Action:  
392.2000 Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].
- 5) Effective date of rules: August 30, 1995
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes  
These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: August 28, 1995
- 9) Notice of proposal published in Illinois Register: April 28, 1995, 19 Ill. Reg. 6156
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:  
The Department underlined the last sentence on the Notice page.  
The Department corrected the statutory references on the Notice page.  
The Department corrected the Authority Note.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.
- 13) Will this rule replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department is updating the date of incorporation by reference of 49 CFR 392 as of October 1, 1994, and including the federal rulemakings adopted at 59 FR 60319, November 23, 1994; 59 FR 63921, December 12, 1994.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

A number of final rules which affected this Part have been published by the Federal Highway Administration (FHWA) since the Department's last rulemaking. These rulemakings are contained in 49 CFR 392, October 1, 1994 which is incorporated by reference in Section 392.2000(a).

Dockets MC-116, MC-92-19, MC-92-23 (59 FR 7484, February 15, 1994) adds regulations on controlled substances and alcohol use testing to the regulations. Makes conforming amendments to other parts of the regulations.

Docket MC-93-19 (59 FR 34708, July 6, 1994) amends the requirements for warning devices for stopped commercial motor vehicles (CMVs) to allow the use of fuseses and liquid-burning flares in lieu of bidirectional reflective triangles, unless the CMV is transporting certain hazardous materials or is powered by compressed gas.

The Department's regulations also incorporate changes made in the following Dockets:

Docket MC-93-32 (59 FR 60319, November 23, 1994) removes regulations and appendices from the Federal Motor Carrier Safety Regulations which are obsolete, redundant or more appropriately regulated by State and local authorities.

(59 FR 63921, December 12, 1994) amends the regulations to provide nomenclature changes that will revise and update certain regulatory references and terms.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen, Regulations and Training Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
CP.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 92: TRANSPORTATION

## CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

## PART 392

## DRIVING OF MOTOR VEHICLES

## Section

392.1000 General

392.2000 Incorporation by Reference of 49 CFR 392

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law (625 ILCS 5/Ch. 18B).

SOURCE: Adopted at 14 Ill. Reg. 15503, effective September 10, 1990; amended at 15 Ill. Reg. 13155, effective August 21, 1991; amended at 18 Ill. Reg. 740, effective January 11, 1994; amended at 18 Ill. Reg. 10359, effective June 15, 1994; amended at 19 Ill. Reg. 13038, effective AUG 30 1995.

## Section 392.2000 Incorporation by Reference of 49 CFR 392

a) "Driving of Motor Vehicles" (49 CFR 392) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1994-1994, as amended at 59 FR 60319, November 23, 1994; and as amended at 59 FR 63921, December 12, 1994-58-FR-673707-December 21, 1993. No later amendments to or editions of 49 CFR 392 are incorporated.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in the FMCSR.

c) The following addition to 49 CFR 392 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for violations of the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended 19 Ill. Reg. 13038, effective AUG 30 1995)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Hours of Service of Drivers

2) Code Citation: 92 Ill. Adm. Code 395

3) Section Numbers: Adopted Action:

395.2000

Amend

4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (625 ILCS 5/Ch. 18B).

5) Effective date of rules: August 30, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) Date filed in agency's principal office: August 28, 1995

9) Notice of proposal published in Illinois Register: April 28, 1995, 19 Ill. Reg. 6160

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:

The Department underlined the last sentence on the Notice page.

In Section 395.2000(c)(2), the Department inserted a closed paren.

In Section 395.2000(a), a comma was removed after "396."

The statutory references in the Notice and in the Authority Note were corrected.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules: By this Notice of Adopted Amendments, the

## DEPARTMENT OF TRANSPORTATION

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Department is updating the date of incorporation by reference of 49 CFR 395 as of October 1, 1994 and including the federal rulemaking adopted at 59 FR 60319, November 23, 1994.

A number of final rules which affected this Part have been published by the Federal Highway Administration (FHWA) since the Department's last rulemaking. These rulemakings are contained in 49 CFR 395, October 1, 1994 which is incorporated by reference in Section 395.2000(a).

Dockets MC-116, MC-92-19, and MC-92-23 (59 FR 7484, February 15, 1994) adds regulations on controlled substance and alcohol use testing to the regulations. Makes conforming amendments to other parts of the regulations.

Docket MC-89-15 (59 FR 8748, February 23, 1994) amends the regulations to make private motor carriers of passengers involved in transportation subject to the regulations with certain exceptions.

The Department's regulations also incorporate changes made in the following Docket:

Docket MC-93-32 (59 FR 60319, November 23, 1994) removes regulations and appendices from the Federal Motor Carrier Safety Regulations which are obsolete, redundant or more appropriately regulated by State and local authorities.

The Department also removed references to the Illinois Revised Statutes and a Public Act at Section 395.2000(c)(2) which will be replaced by references to the Illinois Compiled Statutes.

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen, Regulations and Training Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

## PART 395

## HOURS OF SERVICE OF DRIVERS

Section  
395.1000 General  
395.2000 Incorporation by Reference of 49 CFR 395

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15507, effective September 10, 1990; amended at 15 Ill. Reg. 13161, effective August 21, 1991; amended at 16 Ill. Reg. 14425, effective September 8, 1992; amended at 18 Ill. Reg. 743, effective January 11, 1994; amended at 19 Ill. Reg. 13041, effective AUG 30 1995.

## Section 395.2000 Incorporation by Reference of 49 CFR 395

a) "Hours of Service of Drivers" (49 CFR 395) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396 and 397) that was in effect on October 1, 1994 1992, as amended at 59 FR 60319, November 23, 1994, ~~as amended at 58 FR 33757-June-23-1993~~ subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated.

b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.

- 1) Sections 395.1(i) and 395.1(j) are deleted and not incorporated.
- 2) Section 395.1(e) as it applies to intrastate carriers is amended to establish that ~~drivers shall operate within a 150 air-mile radius of the normal work reporting location to qualify for exempt status.~~ (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) ~~shall be revised to read: "ch-95-172-par-10b-105(d)"~~ [625 ILCS 5/18b-105(d)] ~~see P.A. 88-4767-effective-July-17-1994~~)

3) Section 395.13 is not incorporated and the following substituted therefor:

- A) Authority to declare drivers out-of-service due to violations of the "North American Uniform Out-of-Service Criteria" as defined in 92 Ill. Adm. Code 390.1020. Every Illinois State Police officer certified to conduct Commercial Vehicle inspections, Levels 1, 2, or 3 (as defined in 92 Ill. Adm. Code 390) is authorized to declare a



## DEPARTMENT OF TRANSPORTATION

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driver out-of-service as set forth in subsection (c)(3)(B) and to notify the motor carrier of that declaration upon finding at the time and place of examination that the driver has violated the out-of-service criteria.

## B) Out-of-Service Criteria

- i) No driver shall drive after being on duty in excess of the maximum periods permitted by 49 CFR 395.
- ii) No driver required to maintain a record of duty status under 49 CFR 395.8 or 395.15 shall fail to have a record of duty status current on the day of examination and for the prior seven consecutive days.
- iii) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but who has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.

## C) Responsibilities of motor carriers

- i) No motor carrier shall:
  - Require or permit a driver who has been declared out-of-service to operate a motor vehicle until that driver may lawfully do so under the requirements in 49 CFR 395;
  - Require a driver who has been declared out-of-service for failure to prepare a record of duty status to operate a motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this Section. The consecutive eight hour off duty period may include sleeper berth time.
- ii) A motor carrier shall, if required (refer to 92 Ill. Adm. Code 396.2010 for requirement), complete the "Notice to Motor Carrier" portion of the Form ISP 5-238 (Illinois Commercial Driver-Vehicle Inspection Report) and deliver the copy of the form either personally or by mail to the Illinois State Police Motor Carrier Safety Section at the address specified upon the form within 15 days following the date of examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.

## D) Responsibilities of the Driver:

- i) No driver who has been declared out-of-service shall operate a motor vehicle until that driver may lawfully do so under the requirements of 49 CFR 395..
- ii) No driver who has been declared out-of-service, for failing to prepare a record of duty status, shall operate a motor vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this Section.

## DEPARTMENT OF TRANSPORTATION

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- iii) A driver to whom a form has been tendered declaring the driver out-of-service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by motor carrier to receive it.
- iv) This Section does not alter the hazardous materials requirements prescribed in 92 Ill. Adm. Code 397 pertaining to attendance and surveillance of motor vehicles.

- 4) Part 395 shall not apply to agricultural movements between the period of February 15 through June 30 each year, and all farm to market agricultural transportation as defined in 92 Ill. Adm. Code 390.1020 and for grain hauling operations within a radius of 200 air miles of the normal work reporting location that are engaged in intrastate commerce. (Section 18b-105(c)(6) of the Law)

(Source: Amended 1995, 19 Ill. Reg. 13041, effective

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1) Heading of the Part: Inspection, Repair and Maintenance

2) Code Citation: 92 Ill. Adm. Code 396

3) Section Numbers: Adopted Action:

396.2000 Amend

4) Statutory Authority: Implementing, and authorized by Section 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

5) Effective Date of Rulemaking: August 30, 1995

6) Does this rulemaking contain an automatic repeal date? No.

7) Does this rulemaking contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) Date Filed in Agency's Principal Office: August 28, 1995

9) Notice of Proposal Published in Illinois Register: April 28, 1995, 19 Ill. Reg. 6166

10) Has JCAR issued a Statement of Objections to these rules? No.

11) Difference(s) between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:

The Department underlined the last sentence on the Notice page.

The Department corrected the statutory references on the Notice page and in the Authority Note.

The Department deleted the word "as" on the fifth line in Section 396.2000(a).

The Department inserted slashes in the ILCS citations at subsections 396.2000(c)(2) and (4).

The Department inserted a closed paren at Section 396.2000(c)(2).

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will this rulemaking replace an emergency rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

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## NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking:

By this Notice of Adopted Amendments, the Department is updating the date of incorporation by reference of 49 CFR 396 as of October 1, 1994 and including the federal rulemaking adopted at 59 FR 60319, November 23, 1994.

A final rule which affected this Part was published by the Federal Highway Administration (FHWA) since the Department's last rulemaking. The following rulemakings are contained in 49 CFR 396, October 1, 1994 which is incorporated by reference in Section 396.2000(a).

Docket MC-88-15 (59 FR 8748, February 23, 1994) amends the regulations to make private motor carriers of passengers involved in transportation subject to the regulations with certain exceptions.

The Department's regulations also incorporate changes made in the following Docket:

Docket MC-93-32 (59 FR 60319, November 23, 1994) removes regulations and appendices from the Federal Motor Carrier Safety Regulations which are obsolete, redundant or more appropriately regulated by State and local authorities.

The Department is also removing references to the Illinois Revised Statutes which are replaced by references to the Illinois Compiled Statutes.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen, Regulations and Training Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, IL 62794-9212  
(217) 785-1181

The full text of the Adopted Amendment begins on the next page:





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At Section 390.1020, "Business District," the Department added a slash in the ILCS citation.

Language was added at Section 390.1020, "Emergency."

At Section 390.1020, "For-Hire," the period was shifted to the end of the sentence.

At Section 390.1020, "Law," the Department corrected the ILCS cite.

At Section 390.1020, "Motor Carrier," the Department deleted the dash in the second sentence and replaced it with a slash.

The Department replaced dashes with slashes where appropriate in our copy.

In the Main Source Note, the page number "10359" was changed to "10362."

At Section 390.2000(a) and (b), the Department changed "Subpart" to "subpart" a total of 4 times.

At Section 390.2000(b), the Department added a new subsection (b)(4).

In the definition of "North American Uniform Out-of-Service Criteria" the Department changed "provinces" to "provinces."

Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

Will this rule replace an Emergency Rule currently in effect? No

Are there any amendments pending on this Part? No

Summary and purpose of rules: By this Notice of Adopted Amendments, the Department is updating the date of incorporation by reference of 49 CFR 390, Subpart B as of October 1, 1994, to incorporate by reference 49 CFR 390, Subpart C, and is updating all other references to 49 CFR as of October 1, 1994. This rulemaking also removes references to the Illinois Revised Statutes which are replaced by the Illinois Compiled Statutes.

A number of final rules which affected Subparts A and B of this Part have been published by the Federal Highway Administration since the Department's last rulemaking. The following dockets impact Subpart A of this Part:

Docket MC-90-6 (58 FR 59194, November 8, 1993): Replaces the term "health

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NOTICE ADOPTED AMENDMENT

1) Heading of the Part: Motor Carrier Safety Regulations: General

2) Code Citation: 92 Ill. Adm. Code 390

|                         |                        |
|-------------------------|------------------------|
| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
| 390.1000                | Amend                  |
| 390.1010                | Amend                  |
| 390.1020                | Amend                  |
| 390.1030                | Amend                  |
| 390.2000                | Amend                  |

4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (625 ILCS 5/Ch. 18B).

5) Effective date of rules: August 30, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? Yes

These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) Date filed in agency's principal office: August 28, 1995

9) Notice of proposal published in Illinois Register: April 28, 1995, 19 Ill. Reg. 6170

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:

The Department corrected the statutory reference at question #4 on the Notice.

The Department underlined the last sentence on the Notice page.

The Department deleted the "s" in "carriers" on the 4th line of the 2nd Federal Register summary on the Notice.

The Authority Note was corrected.

The Department added a slash to the ILCS citation at Section 390.1010(g).

At Section 390.1010(g)(5), the Department inserted a period with underscoring and struck through the semicolon and the word "and."

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## NOTICE ADOPTED AMENDMENT

care professional" with "medical examiner." The definition of "health care professional" will be removed from Section 390.1020 and the term "medical examiner" will be added.

Docket MC-88-15 (59 FR 8748, February 23, 1994): Amends the Federal Motor Carrier Safety Regulations (FMCSR) to make private motor carriers of passengers involved in interstate transportation subject to the regulations with certain exceptions. Definitions of "private motor carrier of passengers" and "private motor carrier of property" will be removed from Section 390.1020 pursuant to this federal rule. Definitions of "private motor carrier," "private motor carrier of passengers (business)," and "private motor carrier of passengers (nonbusiness)," are added in Section 390.1020 to apply this federal rule to interstate transportation. Section 390.1010(e)(6) is deleted to reflect this federal rule's impact on the Illinois Motor Carrier Safety Regulations. Private transportation of passengers is no longer completely exempt from the regulations.

Docket MC-92-13 (59 FR 26022, May 18, 1994): Amends the FMCSR by making a conviction of any violation of an out-of-service order by a driver of a commercial motor vehicle a disqualifying offense. Such a conviction will result in suspension, revocation, or cancellation of the driver's Commercial Driver's License or disqualification by the FHWA for a period of time from 90 days to five years. "Out-of-Service Order" is defined in Section 390.1020 pursuant to this federal rule.

Docket MC-93-32 (59 FR 60319, November 23, 1994): Removes regulations and appendices from the Federal Motor Carrier Safety Regulations which are obsolete, redundant or more appropriately regulated by State and local authorities.

The following federal rulemaking initiated the Department's incorporation by reference of 49 CFR 390, Subpart C and impacts Subpart B of this Part.

Docket MC-93-17 (59 FR 67544, December 29, 1994): Establishes requirements for persons who tender an intermodal container or trailer having a projected gross cargo weight of more than 10,000 pounds to provide certification to the initial carrier of its projected gross cargo weight and a reasonable description of its contents.

6) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen, Regulations and Training Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1181

## DEPARTMENT OF TRANSPORTATION

## NOTICE ADOPTED AMENDMENT

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE ADOPTED AMENDMENT

## TITLE 92: TRANSPORTATION

## CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

## PART 390

## MOTOR CARRIER SAFETY REGULATIONS: GENERAL

## SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

## Section

390.1000 Purpose

390.1010 General Applicability

390.1020 Definitions

390.1030 Rules of Construction

## SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

## Section

390.2000 Incorporation by Reference

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15519, effective September 10, 1990; amended at 15 Ill. Reg. 13171, effective August 21, 1991; amended at 16 Ill. Reg. 14435, effective September 8, 1992; amended at 18 Ill. Reg. 754, effective January 11, 1994; amended at 19 Ill. Reg. 10362, effective June 15, 1994; amended at 19 Ill. Reg. 13050, effective AUG 30 1995.

## SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

## Section 390.1000 Purpose

This Part establishes general applicability, definitions, general requirements and information as they pertain to persons subject to the Illinois Motor Carrier Safety Law (the Law) (111--Rev--Stat--1991--ch--95--127--pers--18b-100 through-111) [625 ILCS 5/Ch. 18B]. The Motor Carrier Safety Regulations (MCSR) consists of 92 Ill. Adm. Code 386, 390, 391, 392, 393, 395, 396, and 397.

(Source: Amended at 19 Ill. Reg. 13050, effective AUG 30 1995.)

## SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

## Section 390.1010 General Applicability

- a) All Parts of the MCSR except for "Driving and Parking" (92 Ill. Adm. Code 397) are applicable to:

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Persons employing drivers, drivers and commercial motor vehicles which transport property or passengers in interstate or intrastate commerce. (Section 18b-106 of the Law)

- b) The provisions in subpart C of 49 CFR 390 (incorporated by reference in Section 390.2000 of this Part) are applicable to persons tendering loaded containers or trailers, to carriers used to transport such loaded containers or trailers, and to persons who coerce or attempt to coerce a motor carrier to transport a loaded container or trailer in violation of that subpart.

- c) 92 Ill. Adm. Code 397 applies to any employer, employee or motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:

- 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
- 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.

- d) The provisions of 92 Ill. Adm. Code 397 do not apply to the transportation of hazardous materials cited in 92 Ill. Adm. Code 171.5, agricultural exception, when such commodities are transported from retailer to final agricultural end user, or between final end users from farm to farm in approved containers and in the amounts and manner specified.

- e) Nothing in the MCSR shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

- f) The MCSR requires knowledge of and compliance with the following:

- 1) Every employer shall be knowledgeable of and comply with all requirements contained in the MCSR which are applicable to that motor carrier's operations.
- 2) Every driver and employee shall comply with all applicable requirements contained in the MCSR and shall be instructed accordingly.
- 3) All motor vehicles' equipment and accessories required by the MCSR shall be maintained in compliance with all applicable performance and design criteria also set forth in the MCSR.

- g) Except for provisions in paragraph 13-101 of the Illinois Vehicle Code [625 ILCS 5/13-101] or unless otherwise specifically provided, the requirements in the MCSR do not apply to:

- 1) All school bus operations as defined in Section 390.1020 of this Part;
- 2) Transportation performed by the federal government, a state, or any political subdivision of a state, or an agency established under a compact between states that has been approved by the Congress of the United States. The accident recordkeeping requirements of 49 CFR 390.15 remain applicable to the entities identified in this subsection when engaged in the interstate charter transportation of passengers; 458--FR--33757--Gene--217



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- 3) The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
- 4) The transportation of human corpses or sick and injured persons;
- 5) The operation of fire trucks and rescue vehicles while involved in emergency and related operations; and
- 6† ~~The private transportation of passengers.~~

(Source: Amended at 19 Ill. Reg. 13050, effective AUG 30 1995)

## Section 390.1020 Definitions

The following definitions apply to all Parts in the MCSR unless a specific Part expressly defines a term different than what is used below:

## "Accident" means:

Except as otherwise provided below an occurrence involving a commercial motor vehicle operating on a public road which results in:

## A fatality;

Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

The term accident does not include:

An occurrence involving only boarding and alighting from a stationary motor vehicle;

An occurrence involving only the loading or unloading of cargo; or

An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 49 CFR 571.3) by a motor carrier and is not transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 CFR 177.823. [49 CFR 390.5, October 1, 1994] †58--PR--67367

February-27-1993†

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"Agricultural Movements" means the operation of a motor vehicle or combination of vehicles controlled and operated by a private motor carrier of property that is using the vehicle to transport nonhazardous or hazardous agricultural crop production fertilizers or agricultural chemicals from a local source of supply to farm or field, or from one farm or field to another, or from farm or field back to the local source of supply. (Section 18b-101 of the Law)

"Alcohol concentration" (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. "Federal Motor Carrier Safety Regulations: General" (49 CFR 390.5, October 1, 1994 †992)

"Bus" means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs. (49 CFR 390.5, October 1, 1994 †922)

"Business district" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to, hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway. (Section 1-108 of the Illinois Vehicle Code (the Code) †1117--Rev--Stat--19917-chr--25-1727-par--1-108† [625 ILCS 5/1-108])

"Charter transportation of passengers" means transportation, using a bus, of a group of persons who, pursuant to a common purpose, under a single contract, at a fixed charge for the vehicle, have acquired the exclusive use of the vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. (49 CFR 390.5, October 1, 1994 †992)

"Code" means the Illinois Vehicle Code †1117--Rev--Stat--19917--chr 95-1727-par--1-108-et-seq† [625 ILCS 5].

"Commerce" means trade, commerce or transportation within the State. (Section 18b-101(1) of the Law)

"Commercial Motor Vehicle (CMV)" means any self propelled or towed vehicle used on public highways in interstate and intrastate commerce to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; or the vehicle is designed to transport more than 15 passengers, including the driver; or the vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act.

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*This definition shall not include farm machinery, fertilizer spreaders, and other special agricultural movement equipment described in Section 3-809 of the Code nor implements of husbandry as defined in Section 1-130 of the Code.* (Section 18b-101 of the Law)

"Commercial Vehicle Inspections" means:

Level 1 - North American Standard Inspection: An inspection that includes each of the items specified under the North American Uniform Out-of-Service Criteria. As a minimum, North American Standard inspections must include examination of: driver's license, medical examiner's certificate and waiver if applicable, alcohol and drugs, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, brake system, steering mechanism, wheels and rims, tires, coupling devices, suspension, frame, fuel system, exhaust system, windshield glazing and wipers, lighting devices, safe loading, and hazardous material requirements as applicable.

Level 2 - Walk Around Driver/Vehicle Inspection: An examination that, as a minimum, includes: driver's license, medical examiner's certificate, and waiver if applicable, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, fire extinguisher, warning devices for stopped vehicles, head lamps, turn signals, stop lamps, windshield and wipers, wheels, tires, fuel system, exhaust system, visible brake components, coupling devices, cargo securement, low air warning device, visible suspension components, and hazardous material requirements as applicable. It is contemplated that the walk-around driver/vehicle inspection will be conducted without inspecting underneath the vehicle.

Level 3 - Driver Only Inspection: A roadside examination of the driver's license, medical certification and waiver if applicable, driver's record of duty status as required, hours of service, seat belt, and vehicle inspection report. (Commercial Vehicle Safety Alliance (CVSA), CVSA Operations Manual, January 1993)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. (49 CFR 390.5, October 1, 1994 1992)

"Department" means the Illinois Department of Transportation. (Section

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18b-101 of the Law)

"Direct assistance" means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed. (49 CFR 390.5, October 1, 1994 1992)

"Disabling Damage" means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

## Exclusions:

Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

Tire disablement without other damage even if no spare tire is available.

Headlamp or taillight damage.

Damage to turn signals, horn or windshield wipers which makes them inoperative. (49 CFR 390.5, October 1, 1994) 1992  
PR-67267-February-27-1993

"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by state law; or refusal to undergo such testing as is required by any state or jurisdiction in the enforcement of "Commercial Driver's License Standards: Requirements and Penalties" (49 CFR 383.51(b)(2)(i)(A) or (B)) or "Driving of Motor Vehicles" (49 CFR 392.5(a)(2)). (49 CFR 390.5, October 1, 1994 1992)

"Driveway-towaway operation" means any operation in which a motor vehicle constitutes the commodity being transported and one or more sets of wheels of the vehicle being transported are on the surface of the roadway during transportation. (49 CFR 390.5, October 1, 1994 1992)

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"Driver" means any person who operates any commercial motor vehicle. (49 CFR 390.5, October 1, 1994 1992)

"Emergency" means any hurricane, tornado, storm (e.g., thunderstorm, snowstorm, ice storm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

A declaration of an emergency by the President of the United States, the Governor of a state, or their authorized representatives having authority to declare emergencies; by the Regional Director of Motor Carriers for the region in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his designee; or

A request by a police officer for tow trucks to move wrecked or disabled vehicles. (49 CFR 390.5, October 1, 1994 1992)

"Emergency relief" means an operation in which a motor carrier or driver of commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this Section. (49 CFR 390.5, October 1, 1994 1992)

"Employee" means:

A driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);

A mechanic;

A freight handler; and

Any individual, who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under

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a compact between states and approved by the Congress of the United States who is acting within the course of such employment. (49 CFR 390.5, October 1, 1994 1992)

"Employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a state, or any agency established under a compact between states approved by the Congress of the United States.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the Interstate Commerce Commission (ICC) in "Commercial Zones" (49 CFR 1048), revised as of October 1, 1975. The descriptions are printed in Appendix F to the Motor Carrier Safety Regulations. A driver may be considered to operate a vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone. (49 CFR 390.5, October 1, 1994 1992)

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the ICC under "Miscellaneous Motor Carrier Transportation Exemptions" (49 U.S.C. 10526). "Exempt motor carriers" are subject to the requirements set forth in the Motor Carrier Safety Regulations. (49 CFR 390.5, October 1, 1994 1992)

"Farm to market agricultural transportation" means the operation of a motor vehicle controlled and operated by a farmer who is a private motor carrier of property; who is using the vehicle to transport agricultural products to or from a farm operated by the farmer, or to transport farm machinery or farm supplies to or from a farm operated by the farmer; and who is not using the commercial vehicle to transport hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with the Illinois Hazardous Materials Transportation Act. (Section 18b-101 of the Law)

"Farm machinery" -- see definition of "Special Agricultural Movement Equipment" in this Section.

"Farm vehicle driver" means a person who drives only a commercial motor vehicle that is --

Controlled and operated by a farmer as a private motor carrier of property;

Being used to transport either --



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Agricultural products, or

Farm machinery, farm supplies, or both, to or from a farm;

Not being used in the operation of a for-hire motor carrier;

Not carrying hazardous materials of a type or quantity that required the vehicle to be placarded in accordance with 49 CFR 177.823; and

Being used within 150 air-miles of the farmer's farm.

"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

Are owned by that person; or

Are under the direct control of that person. (49 CFR 390.5, October 1, 1994 1992)

"Fatality" means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days after the accident. (49 CFR 390.5, October 1, 1994) ~~(58 FR 67367-February 27 1993)~~

"Federal Highway Administrator" means the chief executive of the Federal Highway Administration, an agency within the United States Department of Transportation. (49 CFR 390.5, October 1, 1994 1992)

"For-hire" means the operation of a vehicle for compensation and subject to federal regulation by the Interstate Commerce Commission or to State regulation by the Illinois Commerce Commission. (Section 1-124 of the Code)-

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation. (49 CFR 390.5, October 1, 1994 1992)

"Gross Combination Weight Rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR 390.5, October 1, 1994 1992)

"Gross Vehicle Weight Rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single vehicle. (49 CFR 390.5, October 1, 1994 1992)

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"Hazardous material" means a substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. (49 CFR 390.5, October 1, 1994 1992)

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in the "Hazardous Materials Table and Hazardous Materials Communications" (49 CFR 172.101) when offered for transportation in one package, or in one transport vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in "General Information, Regulations and Definitions" (49 CFR 171.8) based on the reportable quantity (RQ) specified for the materials listed in 49 CFR 172.101. (49 CFR 390.5, October 1, 1994 1992)

"Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in "Standards Applicable to Generators of Hazardous Waste" (40 CFR 262) or would be subject to these requirements absent an interim authorization to a state under "State Program Requirements" (40 CFR 123), Subpart F. (49 CFR 390.5, October 1, 1994 1992)

~~"Health-Care-Professional" means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations; the term includes doctors of medicine; doctors of osteopathy; and doctors of chiropractic."~~

"Illinois State Police" means any individual officer of the Illinois State Police.

"Implement of Husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry provided that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds, shall be included hereunder. (Section 1-130 of the Code)

"Intermittent, casual, or occasional driver" means a driver who in any period of 7 consecutive days is employed or used as a driver by more than a single motor carrier. The qualification of such a driver shall be determined and recorded in accordance with the provisions of 49 CFR 391.63 or 391.65, as applicable. (49 CFR 390.5, October 1, 1994 1992)

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"Interstate commerce" means transportation between two or more states or transportation originating in one state and passing into or through other states for delivery in another state. (Section 1-133 of the Code)

"Intrastate commerce" means any trade, traffic, or transportation in Illinois which is not described in the term "interstate commerce." (49 CFR 390.5, October 1, 1994 ±992)

"Law" means the Illinois Motor Carrier Safety Law (625 ILCS 5/Ch. 18B).

"Medical Examiner" means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes doctors of medicine, doctors of osteopathy, and doctors of chiropractic.

"Motor carrier" means a for-hire motor carrier or a private motor carrier ~~of property~~. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of the MCSR, the definition of "motor carrier" includes the terms "employer" and "exempt motor carrier." (49 CFR 390.5, October 1, 1994 1992)

"Motor Carrier Safety Regulations (MCSR)" means the requirements established in Parts 386, 390, 391, 392, 393, 395, 396 and 397 (92 Fed. Reg. 10,000) of the Federal Motor Carrier Safety Regulations, 49 CFR, 101.11, Adm. Code: Chapter I, Subchapter d.

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5, October 1, 1994-1992)

"North American Uniform Out-Of-Service Criteria" means a set of guidelines recognized by all states and the provinces **providences** of Canada as acceptable standards for identifying driver violations and critical vehicle inspection items that may render a driver, a commercial motor vehicle or a hazardous material load out-of-service. The criteria is enforced by law enforcement officers of a state or the federal government.

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"Operator" -- see driver.

"Other terms" -- any other term used in the MCSR is used in its commonly accepted meaning, except where such other term has been defined elsewhere in the MCSR. In that event, the definition therein given shall apply. (49 CFR 390.5, October 1, 1994 ~~1992~~)

"Out-of-service order" means a declaration by an authorized enforcement officer of a Federal, State, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out-of-service pursuant to 49 CFR 386.72, 49 CFR 392.5, 49 CFR 395.13, 396.9, or compatible laws, or the North American Uniform Out-of-Service Criteria as defined in this Section. (49 CFR 390.5, October 1, 1994)

"Person" means any natural person or individual, governmental body, firm, association, partnership, copartnership, joint venture, company, corporation, joint stock company, trust, estate or any other legal entity or their legal representative, agent or assigns. (Section 18b-101(5) of the Law)

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, where records required by "Minimum Levels of Financial Responsibility for Motor Carriers" (49 CFR 387), "Federal Motor Carrier Safety Regulations: General" (49 CFR 390), "Qualification of Drivers" (49 CFR 391), "Hours of Service of Drivers" (49 CFR 395), and "Inspection, Repair and Maintenance" (49 CFR 396) will be maintained. Provisions in the MCSR are made for maintaining certain records at locations other than the principal place of business. (49 CFR 390.5, October 1, 1994) ~~46-PR-337757-June 27-1993~~

"private motor carrier" means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier (49 CFR 390.5, October 1, 1994)

"Private motor carrier of passengers (business)" means a private motor carrier engaged in the interstate or intrastate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large. (49 CFR 390.5, October 1, 1994)

"Private motor carrier of passengers (nonbusiness)" means a private motor carrier involved in the interstate or intrastate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business). (49 CFR 390.5, October 11, 1994)

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"private-motor-carrier-of-passengers" means a person who is engaged in an enterprise and provides transportation of passengers by motor vehicle that is within the scope of, and in the furtherance of, that enterprise. (49 CFR 390.57, October 17, 1992)

"private-motor-carrier-of-property" means a person who provides transportation of property by motor vehicle and is not a for-hire motor carrier. (49 CFR 390.57, October 17, 1992)

"Radar detector" means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

Transported outside the driver's compartment of the vehicle. For this purpose, the driver's compartment of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and

Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the vehicle. (49 CFR 390.5, October 1, 1994 58 FR 67370-December 21-1993)

"Regional Director" means the Director of the Office of Motor Carriers, Federal Highway Administration; for a given geographical region of the United States. (59 FR 60319, November 23, 1994) the Regional Director, Office of Motor Carrier Safety, for a given geographical region of the United States. (49 CFR 390.57, October 17, 1992)

"Regularly employed driver" means a driver who, in any period of seven consecutive days, is employed or used as a driver solely by a single motor carrier. (49 CFR 390.5, October 1, 1994 1992)

"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences. (49 CFR 390.5, October 1, 1994 1992)

"School bus" means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary of the United States Department of Transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary or secondary school students to such schools from home or from such schools to home. (49 CFR 390.5, October 1, 1994 1992)

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"School bus operation" means the use of a school bus to transport only school children and school personnel from home to school and from school to home and for intrastate sanctioned school functions.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Special agent" - See 49 CFR Appendix B to Subchapter B of Chapter III.

"Special Agricultural Movement Equipment" means a vehicle of the second division having a corn sheller, a weldriller, hay press, clover huller, feed mixer and unloader or other farm machinery permanently mounted thereon and used solely for transporting the same, farm wagon type trailers having a fertilizer spreader attachment permanently mounted thereon, having a gross weight of not to exceed 36,000 pounds and farm wagon type tank trailers (i.e., nurse tanks) not to exceed 2,000 gallon capacity. Also includes any single unit self-propelled agricultural fertilizer implement, designed for both on and off road use, equipped with flotation tires and otherwise especially adapted for the application of plant food materials or agricultural chemicals. (Section 3-809 of the Code)

"State" means a state of the United States and the District of Columbia and includes a political subdivision of a state. (49 CFR 390.5, October 1, 1994 1992)

"Trailer" includes:

"Full trailer" means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing unit. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer. (49 CFR 390.5, October 1, 1994 1992)

"Pole trailer" means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections. (49 CFR 390.5, October 1, 1994 1992)

"Semitrailer" means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the



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self-propelled towing vehicle. (49 CFR 390.5, October 1, 1994 1992)

"Truck" means any self-propelled motor vehicle except a truck/tractor, designed and/or used for the transportation of property. (49 CFR 390.5, October 1, 1994 1992)

"Truck/tractor" means a self-propelled motor vehicle designed and/or used primarily for drawing other vehicles. (49 CFR 390.5, October 1, 1994 1992)

"United States" means the 50 states and the District of Columbia. (49 CFR 390.5, October 1, 1994 1992)

"US DOT" means the United States Department of Transportation.

(Source: Amended at 19 Ill. Reg. 13050, effective AUG 30 1995)

## Section 390.1030 Rules of Construction

a) In the MCSR unless the context requires otherwise:

- 1) Words imparting the singular include the plural;
- 2) Words imparting the plural include the singular;
- 3) Words imparting the masculine gender include the feminine; and
- 4) Words imparting the present tense include the future tense. (49 CFR 390.7, October 1, 1994 1992)

b) In the MCSR:

- 1) "Officer" includes any person authorized by law to perform the duties of the office;
- 2) "Writing" includes printing and typewriting;
- 3) "Shall" is used in an imperative sense;
- 4) "Must" is used in an imperative sense;
- 5) "Should" is used in a recommendatory sense;
- 6) "May" is used in a permissive sense; and
- 7) "Includes" is used as a word of inclusion, not limitation. (49 CFR 390.7, October 1, 1994 1992)

(Source: Amended at 19 Ill. Reg. 13050, effective AUG 30 1995)

## SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

## Section 390.2000 Incorporation by Reference

- a) 49 CFR 390, subparts Subpart B and C are hereby incorporated by reference as those that subparts Subpart of the FMCSR were in effect on October 1, 1994 1992, as amended at 59 FR 67544, December

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29, 1994 ~~as amended at 58 FR 67267-February 27-1993~~, subject only to the exceptions in subsection (b). No later amendments to or editions of 49 CFR 390, subpart Subpart B and C are incorporated.

- b) The following interpretations of, additions to and deletions from 49 CFR 390, subparts Subpart B and C shall apply for the purposes of this Subpart.

1) 49 CFR 390.9 is deleted and not incorporated.

2) Section 390.15(a) is not incorporated and the following is substituted therefor:

A motor carrier shall make all records and information pertaining to an accident available to an authorized representative or special agent of the Federal Highway Administration or Illinois Department of Transportation upon request or as part of any inquiry within such time as the request or inquiry may specify. A motor carrier shall give an authorized representative of the Federal Highway Administration or Illinois Department of Transportation all reasonable assistance in the investigation of any accident including providing a full, true and correct answer to any question of the inquiry.

3) 49 CFR 390.21 applies only to commercial motor vehicles engaged in interstate commerce.

4) Section 49 CFR 390.23(a)(2)(i)(A) is not incorporated and the following substituted therefor:

An emergency has been declared by a Federal, State or local official having authority to declare an emergency, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his designee; or

5) 49 CFR 390.25 applies only to commercial motor vehicles engaged in interstate commerce.

6) 57 Any reference to "this Part" in the incorporated material shall mean 92 Ill. Adm. Code 390.

7) 67 Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.

8) 77 Any reference to a section in the incorporated material shall be read to refer to that Section in the MCSR.

9) 97 Any reference to "Part 325 of Subchapter A" shall be read to refer to "Compliance with Interstate Motor Carrier Noise Emission Standards." (49 CFR 325, October 1, 1994 1992)

(Source: Amended at 19 Ill. Reg. 13050, effective AUG 30 1995)

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Parts and Accessories Necessary for Safe Operation
- 2) Code Citation: 92 Ill. Adm. Code 393
- 3) Section Numbers: Adopted Action:  
393.2000 Amend
- 4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (625 ILCS 5/Ch. 18B).
- 5) Effective date of rules: August 30, 1995
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this amendment contain incorporations by reference? Yes. These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: August 28, 1995
- 9) Notice of proposal published in Illinois Register: April 28, 1995, 19 Ill. Reg. 6189
- 10) Has JCAR issued a Statement of Objections to these rules? No.
- 11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:  
The Department underlined the last sentence on the Notice page.  
A slash was inserted in the Authority Note and in Section 393.2000(c)(2) after "625 ILCS 5."  
In Section 393.2000(a), the comma was removed after "396."  
The statutory references, in the Notice and in the Authority Note, were corrected.  
In Section 393.2000(c)(1), the Department inserted a closed paren before the period at the end of the sentence.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.
- 13) Will this rule replace an Emergency Rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.

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- 15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department is updating the date of incorporation by reference of 49 CFR 393 as of October 1, 1994.  
A number of final rules which affected this Part have been published by the Federal Highway Administration (FHWA) since the Department's last rulemaking. These rulemakings are contained in 49 CFR 393, October 1, 1994 which is incorporated by reference in Section 393.2000(a).  
Docket MC-88-15 (59 FR 8748, February 23, 1994) amends the regulations to make private motor carriers of passengers involved in transportation subject to the regulations with certain exceptions.  
Docket MC-90-1 (59 FR 25572, May 17, 1994) requires Mexican commercial motor vehicles operated in the United States to be equipped with brakes acting on all wheels.  
Docket MC-93-19 (59 FR 34708, July 6, 1994) amends the requirements for warning devices for stopped commercial motor vehicles (CMVs) to allow the use of fuseses and liquid-burning flares in lieu of bidirectional reflective triangles, unless the CMV is transporting certain hazardous materials or is powered by compressed gas.  
Docket MC-93-21 (59 FR 34712, July 6, 1994) amends cargo securement requirements of the regulations to adopt the use of working load limits in specifying the minimum strength of cargo securement devices.  
At Section 393.2000(c)(3), the Department deleted a reference to "drivers" and replaced it with the word "vehicles." Part 393 addresses vehicle requirements instead of driver requirements.  
The Department also removed references to the Illinois Revised Statutes which are replaced by references to the Illinois Compiled Statutes.
- 16) Information and questions regarding these adopted rules shall be directed to:  
Ms. Cathy Allen, Regulations and Training Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, IL 62794-9212  
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:





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## NOTICE OF ADOPTED AMENDMENT

Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

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TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

## PART 386

## PROCEDURES AND ENFORCEMENT

| Section  | Scope                                    |
|----------|--|
| 386.1000 | Scope                                    |
| 386.1010 | Definitions                              |
| 386.1020 | Service                                  |
| 386.1030 | Subpoenas                                |
| 386.1040 | Responsibility for Enforcement           |
| 386.1050 | Investigations                           |
| 386.1060 | Inspection of Records and Motor Vehicles |
| 386.1070 | Out of Service                           |
| 386.1080 | Record of Inspection                     |
| 386.1090 | Warning Letter                           |
| 386.1110 | Maximum Penalties                        |
| 386.1120 | Commencement of Civil Penalty Proceeding |
| 386.1130 | Reply                                    |
| 386.1140 | Payment of Penalty                       |
| 386.1150 | Request for Hearing                      |
| 386.1160 | Hearing                                  |
| 386.1170 | Presiding Officer's Decision             |
| 386.1180 | Assessment Considerations                |
| 386.1190 | Appeal                                   |
| 386.1200 | Willful Violations                       |

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law (625 ILCS 5/Ch. 18B).

SOURCE: Adopted at 14 Ill. Reg. 15542, effective September 10, 1990; amended at 18 Ill. Reg. 778, effective January 11, 1994; amended at 19 Ill. Reg. 13073, effective AUG 30 1998.

## Section 386.1000 Scope

This Part defines certain terms and prescribes procedures that are applicable to each proceeding described in this Part that are utilized by the Department in carrying out its duties under the Illinois Motor Carrier Safety Law (the Law) (1117--Rev--Stat--1991--Ch--95--1727--Par--18b-100-through-1117 [625 ILCS 5/18b-100 through 111] and describes the various enforcement authorities exercised by the Department and the associated sanctions, prescribes the procedures governing the exercise of those authorities and the imposing of those sanctions.

(Source: Amended at 19 Ill. Reg. 13073, effective

DEPARTMENT OF TRANSPORTATION  
NOTICE OF ADOPTED AMENDMENT

AUG 30 1995

DEPARTMENT OF TRANSPORTATION  
NOTICE OF ADOPTED AMENDMENTS1) Heading of the Part: Qualification of Drivers2) Code Citation: 92 Ill. Adm. Code 3913) Section Numbers: Adopted Action:

391.2000

Amend

4) Statutory Authority: Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].5) Effective date of rules: August 30, 19956) Does this rulemaking contain an automatic repeal date? No7) Does this amendment contain incorporations by reference? Yes

These conform to Section 5-75(a) of the Illinois Administrative Procedure Act.

8) Date filed in agency's principal office: August 28, 19959) Notice of proposal published in Illinois Register: April 28, 1995, 19 Ill. Reg. 619710) Has JCAR issued a Statement of Objections to these rules? No11) Differences between proposal and final version: The following changes were made in agreement with JCAR and the Code Division:

The Department changed "390.2000" to "391.2000" on question #3 of the Notice.

The Department added "PR" to the 5th Federal Register citation at question #15.

The Department added a closed paren at question #15 on the Notice page, at the 7th Federal Register citation.

The Department deleted the extra "as amended at" in Section 391.2000(a).

The Department corrected the statutory references on the Notice.

The Department underlined the last sentence on the Notice page.

The Department corrected the Authority Note.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

The Department added a comma after "391" at Section 391.2000(c)(7).

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules: By this Notice of Adopted Amendments, the Department is updating the date of incorporation by reference of 49 CFR 391 as of October 1, 1994, and including the federal rulemakings adopted at 59 FR 60319, November 23, 1994; 59 FR 63921, December 12, 1994; 60 FR 54, January 3, 1995; and 60 FR 13369, March 13, 1995.

A number of final rules which affected this Part have been published by the Federal Highway Administration (FHWA) since the Department's last rulemaking. The following rulemakings are contained in 49 CFR 391, October 1, 1994 which is incorporated by reference in Section 391.2000(a).

Docket MC-90-6 (58 FR 59194, November 8, 1993) contains technical amendments to the Federal Motor Carrier Safety Regulations on physical examinations of commercial motor vehicle drivers.

Docket MC-93-2 (58 FR 68220, December 23, 1993) modifies the controlled substances testing information required to be maintained by motor carriers in annual summaries.

Dockets MC 116, MC-92-19, MC-92-23 (59 FR 7484, February 15, 1994) adds regulations on controlled substances and alcohol use testing to the regulations. Makes conforming amendments to other parts of the regulations.

Docket MC-88-15 (59 FR 8748, February 23, 1994) amends the regulations to make private motor carriers of passengers involved in transportation subject to the regulations with certain exceptions.

Docket MC-92-13 (59 FR 26022, May 18, 1994) amends the regulations to make a conviction of any violation of an out-of-service order by a driver of a commercial motor vehicle a disqualifying offense. Such a conviction will result in a suspension, revocation or cancellation of the driver's CDL or disqualification by the FHWA.

(59 FR 49585, September 29, 1994) makes technical amendments to indicate that the Office of Management and Budget (OMB) has approved the recordkeeping requirements in the final rules for controlled substances and alcohol use and testing.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

The Department's regulations also incorporate changes made in the following Dockets:

Docket MC-93-32 (59 FR 60319, November 23, 1994) removes regulations and appendices from the Federal Motor Carrier Safety Regulations which are obsolete, redundant or more appropriately regulated by State and local authorities.

(59 FR 63921, December 12, 1994) amends the regulations to provide nomenclature changes that will revise and update certain regulatory references and terms.

(60 FR 54, January 3, 1995) removes the compliance date from regulations governing drug testing of foreign-based employees of foreign-domiciled motor carriers.

Docket MC-93-2 (60 FR 13369, March 13, 1995) requires a motor carrier to prepare an annual summary of alcohol and controlled substances test results only upon the demand of an FHWA representative, either as part of an inspection, investigation, or special study; or as part of the anti-drug management information system.

Section 391.2000(c)(5) is amended by replacing "health care professional" with "medical examiner" pursuant to 58 FR 59194, November 8, 1993.

Section 391.2000(c)(7) is added to allow drivers to drive in interstate and intrastate transportation if the Regional Director of the Federal Highway Administration, Motor Carrier Safety has granted a waiver to that person.

Section 391.2000(c)(9) is amended to reflect the impact of 59 FR 8748, February 23, 1994 regarding private motor carriers of passengers. This subsection is also amended to correct a reference to the definition of "commercial motor vehicle" (CMV) as referred to in 92 Ill. Adm. Code 390 and to replace it with a reference to the definition of CMV in 49 CFR 391.85. This corrects an error in the regulations.

Section 391.2000(c)(11) is removed as this is a dated subsection and not required at this time as part of the regulations.

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Cathy Allen, Regulations and Training Unit  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

(217) 785-1181

The full text of the Adopted Amendments begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

## PART 391

## QUALIFICATION OF DRIVERS

## Section

391.1000 General

391.2000 Incorporation By Reference of 49 CFR 391

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15560, effective September 10, 1990; amended at 15 Ill. Reg. 13189, effective August 21, 1991; amended at 16 Ill. Reg. 5362, effective March 23, 1992; amended at 16 Ill. Reg. 14715, effective September 14, 1992; amended at 18 Ill. Reg. 783, effective January 11, 1994; amended at 19 Ill. Reg. 13077, effective AUG 30 1995.

## Section 391.2000 Incorporation By Reference of 49 CFR 391

- a) The Department hereby incorporates 49 CFR 391 by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1994, ~~1992~~ as amended at 59 FR 60319, November 23, 1994; as amended at 59 FR 63921, December 12, 1994; as amended at 60 FR 541 January 3, 1995; and as amended at 60 FR 13369, March 13, 1995 ~~59-FR 39775, June 27, 1993~~, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR 391.
- c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.
- 1) Authorized Illinois State Police shall place drivers out-of-service for violations of the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.
  - 2) Section 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.
  - 3) Paragraphs (b)(3) (*insulin dependent diabetic*) and (b)(10) (*minimum visual acuity*) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle with a gross vehicle weight rating or gross combination weight of over 12,000 lbs., used in the intrastate transportation of property who immediately prior to July 29, 1986 was eligible and licensed to operate a motor vehicle subject to the Illinois Motor Carrier Safety Regulations (FMCSR) and was engaged in operating such vehicles, and who was

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

*disqualified on July 29, 1986 by the adoption of 49 CFR 391 by reason of the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time unless such driver has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner.* (Section 18b-105 of the Law).

- 4) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle which either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or which is designed to transport more than 15 passengers, including the driver; or which has a GVWR or GCWR of less than 12,001 pounds and transports hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act. The vehicle must be used in intrastate transportation. The driver must have been eligible and licensed to operate a motor vehicle subject to the IMCSR and engaged in operating such vehicle immediately prior to January 17, 1992. The driver must have been disqualified on January 17, 1992 by the adoption of Public Act 87-829 which made the IMCSR applicable to vehicles described above. The reason for disqualification must have been the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time. This exception does not apply to any driver who has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner.

- 5) Section 391.43(a)(1) is not incorporated and the following substituted therefor:

Except as provided by 49 CFR 391.43(b) of this section, the medical examination shall be performed by a licensed medical examiner ~~health-care-professional~~ as defined in 92 Ill. Adm. Code 390.1020.

- 6) Section 391.43(g)(4) is added to the Illinois Motor Carrier Safety Regulations and reads as follows:  
If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of Section 391.2000(c)(3) or 391.2000(c)(4) above, the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."

- 7) Section 391.49(a) is not incorporated and the following substituted therefor:

A person who is not physically qualified to drive under 49 CFR 391, and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle in interstate or intrastate transportation if the Regional Director, Motor Carrier Safety has granted a waiver to that person.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 87) Section 391.69 is deleted and not incorporated.  
99) Section 391.83(a) is modified to cause 49 CFR 391, Subpart H to apply to motor carriers and persons, except for private motor carriers of passengers (nonbusiness), who operate a commercial motor vehicle, as defined in 49 CFR 391.85 92-iii--Adm--Code 390-ii020 in either interstate or intrastate commerce.

- 109) The definition of "commercial motor vehicle" in Section 391.85 is modified to include such vehicles operated in either interstate or intrastate commerce, and to not include farm machinery, fertilizer spreaders or other special agricultural movement equipment or implements of husbandry used in intrastate commerce.

- 1110) Section 391.87(q) is not incorporated and the following substituted therefor:

A motor carrier shall produce upon demand and shall permit the Illinois Department of Transportation or Administrator of the US DOT to examine all records related to the administration and results of controlled substance testing performed under this Part.

- 1110) ~~The schedule established in Sections 391.93(b) and (c) for implementation of a controlled substance testing program is modified as follows:~~

- A) ~~The provisions of Section 391.93(b) apply only to motor carriers and operators of commercial motor vehicles engaged in interstate commerce.~~

- B) ~~The provisions of Section 391.93(c) apply only to motor carriers and operators of commercial vehicles engaged in interstate commerce.~~

- C) ~~Motor carriers subject to the provisions of Sections 391.93(b) and (c) shall include any driver who operates a commercial motor vehicle in intrastate commerce in the category of controlled substance testing program not later than December 21, 1990 (49 CFR 391.93).~~

- B) ~~Part 391, Subpart H shall apply to motor carriers and drivers who operate commercial motor vehicles only in intrastate commerce effective December 21, 1990 (49 CFR 391.93).~~

(Source: AUG 30 1995 19 Ill. Reg. 13072, effective )

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY RULES

1) Heading of the Part: Emergency Medical Services and Trauma Center Code

2) Code Citation: 77 Ill. Adm. Code 515

3) Section Numbers: Adopted Action:

515.200 New Section

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50] (see Public Act 89-177, effective July 19, 1995)

5) Effective Date of Emergency Rules: September 1, 1995

6) If this emergency rule is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: September 1, 1995

8) Reason for Emergency: Public Act 89-177 (Senate Bill 618) substantially revised the Emergency Medical Services (EMS) Systems Act. Section 3.15 of the revised Act requires the Department, beginning September 1, 1995, to designate EMS Regions within the State, consisting of specific geographic areas encompassing EMS Systems and trauma centers, in which emergency medical services, trauma services, and nonemergency medical services are coordinated under an EMS Region Plan. Public Act 89-177 became effective on July 19, 1995. The Department is precluded from using regular rulemaking procedures in this situation because EMS Regions must be designated by September 1, 1995. Failure to carry out this responsibility would jeopardize the provision of emergency medical services to the people of Illinois.

9) A Complete Description of the Subjects and Issues Involved: These rules, promulgated under the authority of P.A. 89-177, designate EMS Regions for the State of Illinois. North, south, east and west boundaries are established for 11 Regions. The Department plans to promulgate additional rules under Part 515 to implement the remainder of P.A. 89-177, and to repeal 77 Ill. Adm. Code 535, 540, and 542.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

12) Information and Questions regarding these rules shall be directed to:

Ms. Gail Devito  
Division of Governmental Affairs

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY RULES

Illinois Department of Public Health  
535 West Jefferson Street, Fifth Floor  
Springfield, IL 62761  
(217) 782-6187

The full text of the Emergency Rules begins on the next page:



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY RULES

## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

## PART 515

## EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

## Section

515.200 Emergency Medical Services Regions

## EMERGENCY

**AUTHORITY:** Implementing and authorized by the Emergency Medical Services (EMS) Systems Act (210 ILCS 50) (see Public Act 89-177, effective July 19, 1995).

**SOURCE:** Emergency rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995.

**Section 515.200 Emergency Medical Services Regions****EMERGENCY**

Effective September 1, 1995, Emergency Medical Services Regions are designated as follows:

## a) Region 1 is the following counties:

Jo Daviess, Stephenson, Winnebago, Boone, Ogle, Lee, Carroll, Whiteside.

## b) Region 2 is the following counties:

Rock Island, Warren, Bureau, Putnam, LaSalle, Mercer, Henry, Stark, Marshall, Livingston, Henderson, Knox, Peoria, Woodford, McDonough, Fulton, Tazewell, McLean.

## c) Region 3 is the following counties:

Hancock, Adams, Pike, Calhoun, Schuyler, Brown, Cass, Morgan, Scott, Greene, Jersey, Mason, Menard, Sangamon, Macoupin, Logan, Christian, Montgomery.

## d) Region 4 is the following counties:

Madison, St. Clair, Monroe, Randolph, Bond, Clinton, Washington.

## e) Region 5 is the following counties:

Perry, Jackson, Union, Alexander, Marion, Jefferson, Franklin,

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY RULES

Williamson, Johnson, Pulaski, Wayne, Hamilton, Saline, Pope, Massac, Edwards, White, Gallatin, Hardin, Wabash.

## f) Region 6 is the following counties:

Ford, Iroquois, Dewitt, Piatt, Champaign, Vermillion, Macon, Moultrie, Douglas, Edgar, Shelby, Coles, Cumberland, Clark, Fayette, Effingham, Jasper, Crawford, Clay, Richland, Lawrence.

## g) Region 7 boundary lines:

1) North - Illinois Route 71 east from the Kendall/LaSalle county line to Illinois Route 126; east on Illinois Route 126 to the Kendall/Will county line; north on the Kendall/Will county line to the Will/DuPage county line; the Will/DuPage county line east and then south to Lemont-Joliet Road (Lemont-Joliet Road is in Region 7); Lemont-Joliet Road east from Will/Cook county line to Illinois Route 83 (Illinois Route 83 is in Region 8); Illinois Route 83 south from Lemont-Joliet Road to junction of Illinois Route 171 (Archer Avenue) (Illinois Route 171 is in Region 8); Illinois Route 171 north to the city limits of Summit; Summit city limits to the Chicago city limits (Summit is in Region 7).

2) South - Grundy/Livingston county line; Kankakee/Livingston, Kankakee/Ford, and Kankakee/Iroquois county lines.

3) East - Illinois/Indiana state line for Cook, Will, and Kankakee counties.

4) West - Kendall/LaSalle county lines; Grundy/LaSalle county lines.

## h) Region 8 boundary lines:

1) North - DuPage/Cook county line east to Chicago city limits.

2) South - Will/DuPage county line from Kane county line east, then south to Lemont-Joliet Road (Lemont-Joliet Road is in Region 7); Lemont-Joliet Road east from Cook/Will county line to Illinois Route 83 (Illinois Route 83 is in Region 8); Illinois Route 83 south from Lemont-Joliet Road to junction of Illinois Route 171 (Archer Avenue) (Illinois Route 171 is in Region 8); Illinois Route 171 north to the city limits of Summit; Summit city limits to the Chicago city limits (Summit is in Region 7).

3) East - Chicago city limits.

4) West - DuPage/Kane county line.

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF EMERGENCY RULES

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NOTICE OF EMERGENCY RULES

request will be based on:  
1) Normal transfer patterns; and  
2) Location of the EMS System with which the hospital is affiliated.

- i) Region 9 boundary lines:
  - 1) North - Illinois/Wisconsin state line for McHenry county; Illinois/Wisconsin state line for Lake county from Lake/McHenry county line east to Route 83.
  - 2) South - Illinois Route 71 east from the Kendall/LaSalle county line to Illinois Route 126; east on Illinois Route 126 to the Kendall/Will county line; north on the Kendall/Will county line to the Will/DuPage county line; north on the Kane/DuPage county line; DuPage/Cook county line east to Chicago city limits.
  - 3) East - Route 83 south to Route 173; Route 173 west to Route 59; Route 59 south to Route 60; Route 60 east to Route 83; Route 83 south to the Lake/Cook county line; Lake/Cook county line east to Milwaukee Avenue; Milwaukee Avenue, south to Des Plaines River Road; Des Plaines River Road south to Central Road; Central Road east to I 294; I 294 south to Dempster Street; Dempster Street east to the Niles city limits; Niles city limits south to the Chicago city limits.
  - 4) West - McHenry/Boone and Boone/Dekalb county lines; Ogle/Dekalb county line; Dekalb/Lee county line; Dekalb/LaSalle county line; LaSalle/Kendall county line.
- j) Region 10 boundary lines:
  - 1) North - Illinois/Wisconsin state line for Lake County.
  - 2) South - Chicago city limits.
  - 3) East - Lake Michigan south from Illinois/Wisconsin state line to Chicago city limits.
  - 4) West - Route 83 south to Route 173; Route 173 west to Route 59; Route 59 south to Route 60; Route 60 east to Route 83; Route 83 south to the Lake/Cook county line; Lake/Cook county line east to Milwaukee Avenue; Milwaukee Avenue south to Des Plaines River Road; Des Plaines River Road south to Central Road; Central Road east to I 294; I 294 south to Dempster Street; Dempster Street east to the Niles city limits; Niles city limits south to the Chicago city limits.
- k) Region 11 is the City of Chicago.
- l) Hospitals may request a waiver of the boundary lines for inclusion in a different EMS Region by submitting a request for a waiver to the Department. The Department's decision to grant or deny a waiver

## DEPARTMENT OF INSURANCE

## NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: Summary Document and Disclaimer
- 2) Code Citation: 50 Ill. Adm. Code 3401
- 3) Section Number: 3401.Illustration D
- 4) Date Proposal published in Illinois Register: January 27, 1995, 19 Ill. Reg. 784
- 5) Date Adoption published in Illinois Register: July 7, 1995, 19 Ill. Reg. 3134
- 6) Date Request for Expedited Correction published in Illinois Register: August 11, 1995, 19 Ill. Reg. 11673
- 7) Adoption Effective Date: July 1, 1995
- 8) Correction Effective Date: July 1, 1995
- 9) Reason for Approval of Expedited Correction: To correct typographical error in telephone number.

## DEPARTMENT OF INSURANCE

## NOTICE OF EXPEDITED CORRECTION

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER 11: LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

PART 3401

SUMMARY DOCUMENT AND DISCLAIMER

## Section

3401.10 Applicability

3401.20 Purpose

3401.30 Definitions

3401.40 Delivery of Documents Required

ILLUSTRATION A Disclaimer and Summary Document

AUTHORITY: Implementing and authorized by Section 531.19 of the Illinois Insurance Code [215 ILCS 5/531.19].

SOURCE: Adopted at 19 Ill. Reg. <sup>9134</sup>13090, effective July 1, 1995; expedited correction at 19 Ill. Reg. 13090, effective July 1, 1995.



## DEPARTMENT OF INSURANCE

## NOTICE OF EXPEDITED CORRECTION

## Section 3401. ILLUSTRATION A Disclaimer and Summary Document

ILLINOIS  
LIFE AND HEALTH INSURANCE GUARANTY  
ASSOCIATION LAW

Residents of Illinois who purchase health insurance, life insurance, and annuities should know that the insurance companies licensed in Illinois to write these types of insurance are members of the Illinois Life and Health Insurance Guaranty Association. The purpose of this Guaranty Association is to assure that policyholders will be protected, within limits, in the unlikely event that a member insurer becomes financially unable to meet its policy obligations. If this should happen, the Guaranty Association will assess its other member insurance companies for the money to pay the covered claims of policyholders that live in Illinois (and their payees, beneficiaries, and assignees) and, in some cases, to keep coverage in force. The valuable extra protection provided by these insurers through the Guaranty Association is not unlimited, however, as noted below.

ILLINOIS LIFE AND  
HEALTH INSURANCE GUARANTY ASSOCIATION  
DISCLAIMER

The Illinois Life and Health Insurance Guaranty Association provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent. COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY. Even if coverage is provided, there are substantial limitations and exclusions. Coverage is generally conditioned on continued residence in Illinois. Other conditions may also preclude coverage.

You should not rely on availability of coverage under the Life and Health Insurance Guaranty Association Law when selecting an insurer. Your insurer and agent are prohibited by law from using the existence of the Association or its coverage to sell you an insurance policy.

The Illinois Life and Health Insurance Guaranty Association or the Illinois Department of Insurance will respond to any questions you may have which are not answered by this document. Policyholders with additional questions may contact:

Illinois Life and Health Insurance Guaranty Association  
8420 West Bryn Mawr Avenue  
Chicago, Illinois 60631  
(312) 714-8050 8000

Illinois Department of Insurance

## DEPARTMENT OF INSURANCE

## NOTICE OF EXPEDITED CORRECTION

320 West Washington Street  
4th Floor  
Springfield, Illinois 62767  
(217) 782-4515

Summary of General Purposes And  
Current Limitations of Coverage

The Illinois law that provides for this safety-net coverage is called the Illinois Life and Health Insurance Guaranty Association Law ("Law") (215 ILCS 5/531.01, et seq.). The following contains a brief summary of the Law's coverages, exclusions, and limits. This summary does not cover all provisions, nor does it in any way change anyone's rights or obligations under the Law or the rights or obligations of the Guaranty Association. If you have obtained this document from an agent in connection with the purchase of a policy, you should be aware that its delivery to you does not guarantee that your policy is covered by the Guaranty Association.

## a) Coverage:

The Illinois Life and Health Insurance Guaranty Association provides coverage to policyholders that reside in Illinois for insurance issued by members of the Guaranty Association, including:

- 1) life insurance, health insurance, and annuity contracts;
- 2) life, health or annuity certificates under direct group policies or contracts;
- 3) unallocated annuity contracts; and
- 4) contracts to furnish health care services and subscription certificates for medical or health care services issued by certain licensed entities. The beneficiaries, payees, or assignees of such persons are also protected, even if they live in another state.

## b) Exclusions from Coverage:

- 1) The Guaranty Association does not provide coverage for:
  - A) any policy or portion of a policy for which the individual has assumed the risk;
  - B) any policy of reinsurance (unless an assumption certificate was issued);
  - C) interest rate guarantees which exceed certain statutory limitations;
  - D) certain unallocated annuity contracts issued to an employee benefit plan protected under the Pension Benefit Guaranty Corporation and any portion of a contract which is not issued to or in connection with a specific employee, union or association of natural persons benefit plan or a government lottery;

## DEPARTMENT OF INSURANCE

## NOTICE OF EXPEDITED CORRECTION

- E) any portion of a variable life insurance or variable annuity contract not guaranteed by an insurer; or
- F) any stop loss insurance.
- 2) In addition, persons are not protected by the Guaranty Association if:
- A) the Illinois Director of Insurance determines that, in the case of an insurer which is not domiciled in Illinois, the insurer's home state provides substantially similar protection to Illinois residents which will be provided in a timely manner; or
  - B) their policy was issued by an organization which is not a member insurer of the Association.

## c) Limits on Amount of Coverage:

- 1) The Law also limits the amount the Illinois Life and Health Insurance Guaranty Association is obligated to pay. The Guaranty Association's liability is limited to the lesser of either:
- A) the contractual obligations for which the insurer is liable or for which the insurer would have been liable if it were not an impaired or insolvent insurer, or
  - B) with respect to any one life, regardless of the number of policies, contracts, or certificates:
    - i) in the case of life insurance, \$300,000 in death benefits but not more than \$100,000 in net cash surrender or withdrawal values;
    - ii) in the case of health insurance, \$300,000 in health insurance benefits, including net cash surrender or withdrawal values; and
    - iii) with respect to annuities, \$100,000 in the present value of annuity benefits, including net cash surrender or withdrawal values, and \$100,000 in the present value of annuity benefits for individuals participating in certain government retirement plans covered by an unallocated annuity contract. The limit for coverage of unallocated annuity contracts other than those issued to certain governmental retirement plans is \$5,000,000 in benefits per contract holder, regardless of the number of contracts.
- 2) However, in no event is the Guaranty Association liable for more than \$300,000 with respect to any one individual.

(Source: Expedited correction at 19 Ill. Reg. **13090**, effective July 1, 1995)

## STATE BOARD OF ELECTIONS

## NOTICE OF PUBLIC HEARING ON PROPOSED RULES

- 1) Heading of the Part: Registration of Voters for Federal Elections Only
- 2) Code Citation: 26 Ill. Adm. Code 215
- 3) Date, Time and Location of Public Hearings:
- September 22, 1995  
10:00 a.m.  
State Board of Elections  
1020 S. Spring Street  
Springfield, IL 62708
  - October 16, 1995  
11:00 a.m.  
State Board of Elections  
James R. Thompson Center  
100 W. Randolph Street  
Suite 14-100  
Chicago, IL 60601
- 5) Other Pertinent Information:
- Written comments will also be received until October 13, 1995 and may be addressed to:

A.L. Zimmer  
General Counsel  
Illinois State Board of Elections  
James R. Thompson Center  
100 W. Randolph Street  
Suite 14-100  
Chicago, IL 60601  
(312) 814-6440

## COMMISSIONER OF BANKS AND TRUST COMPANIES

## NOTICE OF PUBLIC INFORMATION

NOTICE OF ACCEPTANCE OF AN APPLICATION  
CALUMET NATIONAL CORPORATION, HAMMOND, INDIANA TO ACQUIRE  
CHICAGO HEIGHTS BANCORP, INC., CHICAGO HEIGHTS, ILLINOIS

Pursuant to Section 3.071(d) of the Illinois Bank Holding Company Act of 1957, 205 ILCS 10/3.071(d) (1992), notice is hereby given that the Commissioner of Banks and Trust Companies has accepted for processing an application by Calumet National Corporation, Hammond, Indiana, 5231 Hohman Avenue, Hammond, Indiana 46320-1738, to acquire Chicago Heights Bancorp, Inc., 1030 Dixie Highway, Chicago Heights, Illinois 60411-2649.

Interested persons who desire to comment on this proposed acquisition may submit their comments in writing no later than 14 days after the publication of this notice to:

Dina A. Mansour  
Commissioner of Banks and Trust Companies  
310 South Michigan Ave.  
Suite 2130  
Chicago, Illinois 60604

## COMMISSIONER OF BANKS AND TRUST COMPANIES

## NOTICE OF PUBLIC INFORMATION

## NOTICE OF PUBLIC MEETING

Notice is hereby given that the State Banking Board of Illinois and the Board of Trustees of the Illinois Bank Examiners' Education Foundation will hold their regularly scheduled meetings on Wednesday, September 27, 1995, at the Office of the Illinois Commissioner of Banks and Trust Companies, 310 South Michigan, Suite 2130, Chicago, Illinois. The meeting of the Board of Trustees of the Illinois Bank Examiners' Education Foundation will begin at 9:30 a.m. The meeting of the State Banking Board of Illinois will begin at 10:30 a.m. The meeting will be open to the public in accordance with the Open Meetings Act, 5 ILCS 120/1-120/6 (1994) [Ill. Rev. Stat. ch. 120, par. 41 (1991)].

This meeting will be accessible to handicapped individuals in compliance with Executive Order #5 and pertinent state and federal laws upon notification of anticipated attendance. Handicapped persons planning to attend and needing special accommodations should contact, either by telephone or by letter, Debra Rath, 500 East Monroe, Springfield, Illinois 62701 or (217)785-2837 to inform of their anticipated attendance.



## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: Ill. Rev. Stat. 1991, ch. 127, par. 2001 (20 ILCS 1515/1)

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 1995. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

|                                     |                                     |
|-------------------------------------|-------------------------------------|
| Agents                              | Cooperative Associations            |
| Agricultural Producers and Products | Delivery Charges                    |
| Assessments                         | Distillation Machinery              |
| Automobile Renting Tax              | Drug Tax Stamps                     |
| Bingo                               | Drugs                               |
| Books and Records                   | Enterprise Zones                    |
| Bulk Sales                          | Exempt Organizations                |
| C.O.A.D.                            | Farm Machinery & Equipment          |
| Certificate of Registration         | Federal Excise Tax                  |
| Charitable Games                    | Financial Institutions              |
| Cigarette Tax                       | Food                                |
| Claims for Credit                   | Food, Drugs & Medical Appliances    |
| Coal Fueled Devices                 | Governmental Bodies                 |
| Coal Mining Equipment               | Graphic Arts                        |
| Coins & Precious Metals             | Gross Receipts                      |
| Computer Software                   | Hotel Operators' Tax                |
| Construction Contractors            | Interest                            |
|                                     | Interstate Commerce                 |
|                                     | Itinerant Vendors                   |
|                                     | Invested Capital Tax                |
|                                     | Leasing                             |
|                                     | Liquor Tax                          |
|                                     | Local Taxes                         |
|                                     | Mandatory Service Charges           |
|                                     | Manufacturer's Purchase Credit      |
|                                     | Manufacturers                       |
|                                     | Manufacturing Machinery & Equipment |
|                                     | Medical Appliances                  |
|                                     | Miscellaneous                       |
|                                     | Motor Fuel Tax                      |
|                                     | Motor Vehicles                      |
|                                     | Newsprint & Ink                     |
|                                     | Nexus                               |
|                                     | Nonprofit Institutions              |
|                                     | Occasional Sale                     |
|                                     | Oil Field Equipment                 |
|                                     | Penalties                           |
|                                     | Pollution Control Facilities        |
|                                     | Prepaid Sales Tax                   |
|                                     | Products of Photoprocessing         |
|                                     | Property Tax                        |
|                                     | Public Utility Taxes                |
|                                     | Real Estate Transfer Tax            |
|                                     | Repairs                             |
|                                     | Replacement Vehicle Tax             |
|                                     | Returns                             |
|                                     | Rolling Stock Exemption             |
|                                     | Sale at Retail                      |

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Sale for Resale  
 Sale of Service  
 Signature  
 Special Order  
 Statute of Limitations  
 Tax Collection  
 Tax Increment Financing  
 Tax Rate  
 Telecommunications Excise Tax  
 Temporary Storage  
 Tire User Fee  
 Trade-Ins  
 Use Tax  
 Vehicle Use Tax  
 Vendors

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25¢ per page for each page over one.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth  
 Legal Services Office  
 101 West Jefferson Street  
 Springfield, Illinois 62794  
 Telephone: (217) 782-6996

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## AUTOMOBILE RENTING TAX

95-0179 04/04/1995 In order for a rental transaction to an exempt organization to be exempt from the Automobile Renting Occupation Tax, the rental agreement must contain the name of the exempt organization as the name of the renter. If this information is not contained in the agreement, there is no exemption for rentals to individuals even though they may be conducting the exempt organization's business. (This is a GIL.)

## BINGO

95-0178 04/03/1995 The Department does not publish a listing containing the names, addresses and phone numbers of authorized bingo establishments. (This is a GIL.)

## BOOKS AND RECORDS

95-0261 06/14/1995 Under certain circumstances, the Department has authorized a retailer to retain detailed sale information other than by daily cash register tapes. (This is a GIL.)

## BULK SALES

95-0194 05/09/1995 The transfer of a corporation's capital stock is not subject to the bulk sales provisions. These provisions are only applicable when a taxpayer is subject to the Retailers' Occupation Tax and, outside the usual course of his business, sells or transfers the major part of any one or more of the stock of goods which he is engaged in the business of selling, the furniture or fixtures, the machinery and equipment, or the real property of any business that is subject to the provisions of the Retailers' Occupation Tax. (This is a GIL.)

## CERTIFICATE OF REGISTRATION

95-0200 05/19/1995 Section 2a of the Retailers' Occupation Tax Act provides that each application for a certificate of registration shall be signed and verified and shall state, in the case of a corporation, the name, title, social security number and home address of each corporate officer. (This is a GIL.)

95-0214 05/23/1995 In order for a corporation to register under the Retailers' Occupation Tax Act, the corporation must provide the home addresses of the corporate officers on the NUC-1 application for a certificate of registration in order to comply with the Act.

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The Department will not process the NUC-1 application without the disclosure of the home addresses of the corporate officers of a corporation. (This is a GIL.)

95-0216 05/23/1995 The requirement that the NUC-1 Illinois Business  
\$1.25 Registration form be signed by an individual who will be responsible for filing returns and payment of taxes due (Question 14) stems from Section 2a of the Retailers' Occupation Tax Act. The provision ensures that the Department be able to identify those persons who are responsible for filing returns and paying taxes. By signing the NUC-1 form, these persons do not become personal guarantors of a corporation's tax liability under all circumstances. (This is a GIL.)

95-0235 05/30/1995 A person (or persons) signing the NUC-1 does not act  
\$1.25 as guarantor of a corporation's tax liability. Rather, they are notifying the Department that they are the person(s) responsible for filing returns and paying taxes. It is only if they willfully fail to file returns or pay taxes that they can be held liable for an amount equal to the amount of taxes owed, plus penalties and interest. (This is a GIL.)

## CHARITABLE GAMES

95-0229 05/26/1995 Sections 5 of the Pull Tabs and Jar Games Act  
\$1.00 requires that the back side of a pull tab ticket contain a series of perforated tabs marked "open here". (This is a GIL.)

95-0245 05/30/1995 "Free play" pull tabs are not prohibited by the Pull  
\$1.00 Tabs and Jar Games Act.

## CIGARETTE TAX

95-0188 04/06/1995 Laser imprinting on single packages of cigarettes may  
\$1.00 not be used as evidence that the tax was properly paid under the Cigarette Tax Act. (This is a GIL.)

## CLAIMS FOR CREDIT

95-0208 05/22/1995 This letter explains the method in which claims for  
\$1.25 credit are submitted. (This is a GIL.)

95-0209 05/22/1995 This letter provides a general discussion of claim  
\$1.25 for credit procedures. (This is a GIL.)

95-0219 05/22/1995 This letter explains the method in which claims for

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\$1.00 credit are submitted. (This is a GIL.)

95-0234 05/30/1995 In order to submit a claim for credit, one must first  
\$1.00 establish that he or she has borne the burden of the tax or that he or she has unconditionally repaid the amount of tax to the vendee from whom he or she has collected the tax. (This is a GIL.)

95-0280 06/29/1995 Section 20 of the Use Tax Act sets out the procedure  
\$1.25 for protesting a Notice of Tentative Determination of Claim denying a claim for credit or refund under that Act. (This is a GIL.)

## COMPUTER SOFTWARE

95-0183 04/05/1995 In order to have a nontaxable license of computer  
\$1.00 software, the license must contain an explicit provision that the vendor will provide another copy of the software at minimal or no charge if the customer loses or damages the software. However, if the vendor is able to provide other evidence of the fact that this indeed is the policy of the vendor, the license will be nontaxable despite the absence of such an explicit provision. (This is a GIL.)

95-0184 04/05/1995 The sale of "canned" computer software is generally a  
\$1.00 taxable retail sale. If the computer software consists of custom computer programs, then the sale of such software is not a taxable retail sale. (This is a GIL.)

95-0196 05/10/1995 Evidence that a vendor in fact has a policy of  
\$3.75 providing another copy of software at minimal or no charge if the customer loses or damages the software may be considered in determining whether the requirements of a license have been met under 86 Ill. Adm. Code 130.1935. This is true even if the policy is not part of the license agreement, and even if the agreement purports to be the complete agreement. (This is a PLR.)

95-0222 05/25/1995 This letter discusses the requirements for a license  
\$1.50 of software set forth at 86 Ill. Adm. Code 130.1935(a)(1). (This is a GIL.)

95-0236 05/30/1995 Since a monthly subscription charge for CD-ROM  
\$1.25 products involves the transfer of tangible personal property, Retailers' Occupation Tax liabilities are incurred on the CD-ROM products. (This is a GIL.)



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95-0237 05/30/1995 Software maintenance agreements are not generally  
\$1.25 taxed. Instead, the seller of the maintenance agreement incurs  
tax on the cost price of the tangible personal property  
transferred incident to completion of the maintenance agreement.  
However, if the maintenance agreement provides for updates of  
canned software, and those upgrades are not separately stated and  
taxed, the entire maintenance agreement is taxable as a sale of  
canned software. (This is a GIL.)

95-0283 06/29/1995 In order for a license of software to be nontaxable,  
\$1.00 the license must meet the requirements set forth at 86 Ill. Adm.  
Code 130.1935(a)(1)(A-E). (This is a GIL.)

## CONSTRUCTION CONTRACTORS

95-0276 06/29/1995 This letter discusses the sales tax treatment of  
\$1.50 woodwork products when sold at retail and when permanently  
affixed as part of a construction contract. (This is a GIL.)

95-0281 06/29/1995 This letter sets out the application of the Illinois  
\$1.25 sales tax laws to sales of modular homes. (This is a GIL.)

95-0286 06/30/1995 This letter answers several questions regarding the  
\$1.75 sale, installation, and repair of grounding systems as well as  
the sale of equipment and software to measure stray voltage.  
(This is a GIL.)

## DELIVERY CHARGES

95-0267 06/26/1995 In the mail order context, so long as the order form  
\$1.00 requires a separate charge for delivery, and so long as the  
charges designated as transportation, delivery or shipping and  
handling are reflective of the actual costs of such  
transportation, delivery, or shipping, they are not taxable.  
(This is a GIL.)

## ENTERPRISE ZONES

95-0217 05/23/1995 The expanded manufacturing machinery and equipment  
\$1.25 and pollution control facilities exemptions are for certified  
businesses located in an Enterprise Zone. The purchase of  
tangible personal property for use in the manufacturing or  
assembling process or in the operation of pollution control  
facilities is exempt under these exemptions. The exemptions are  
not limited to machinery and equipment nor to pollution control

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facilities and replacement parts. The exemptions are available  
for all tangible personal property used or consumed in  
manufacturing or assembling and all tangible personal property  
used or consumed by a business enterprise in the operation of  
pollution control facilities within an enterprise zone. (This is  
a GIL.)

95-0253 06/02/1995 The enterprise zone exemption allows retailers  
\$1.50 located in the municipality or unincorporated area of a county  
that established an enterprise zone to make tax-free sales of  
building materials that will be incorporated into real estate  
located in the enterprise zone. (This is a GIL.)

95-0270 06/26/1995 The enterprise zone exemption allows retailers  
\$1.25 located in the municipality or unincorporated area of a county  
that established an enterprise zone to make tax-free sales of  
building materials that will be incorporated into real estate  
located in the enterprise zone. (This is a GIL.)

## EXEMPT ORGANIZATIONS

95-0201 05/19/1995 Organizations that make application to the Department  
\$1.50 and are determined to be exclusively religious, educational, or  
charitable, receive an exemption identification number (an "E"  
number). This letter outlines the tax liabilities, if any, of  
these organizations. (This is a GIL.)

95-0202 05/19/1995 Organizations that qualify for tax-exempt status must  
\$1.00 apply to the Department for an exemption identification number  
("E" number) with which to document the exemption from tax.  
(This is a GIL.)

95-0233 05/30/1995 Organizations that make application to the Department  
\$1.50 and are determined to be exclusively religious, educational, or  
charitable, receive an exemption identification number (an "E"  
number). This letter outlines the tax liabilities, if any, of  
these organizations. (This is a GIL.)

## FARM MACHINERY AND EQUIPMENT

95-0165 04/21/1995 Grain dryers used in production agriculture qualify  
\$1.25 for the Farm Machinery and Equipment exemption. However, grain  
dryers sold to co-ops and commercial grain elevators, not for use  
in production agriculture, are taxable. (This is a GIL.)

95-0176 04/11/1995 Under the farm machinery and equipment exemption,

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95-0181 \$1.00 machinery and equipment that is used primarily (over 50% of the time) in production agriculture or for use in State or Federal agricultural programs may be purchased free from tax. (This is a GIL.)

95-0206 \$1.25 05/19/1995 Hog huts do not qualify for the Farm Machinery & Equipment exemption. (This is a GIL.)

95-0227 \$1.00 05/26/1995 Grain bins are not exempt from Retailers' Occupation Tax. (This is a GIL.)

95-0262 \$1.25 06/14/1995 ATVs do not qualify for the Farm Machinery and Equipment exemption. ATVs are considered vehicles that are primarily recreational in nature. Even when used on a farm, these vehicles are not used primarily in production agriculture. (This is a GIL.)

95-0269 \$1.00 06/26/1995 Farm machinery and equipment that is used primarily (over 50% of the time) in production agriculture or in State or Federal agricultural programs, may be purchased free from tax. ATVs do not qualify for the exemption afforded farm machinery and equipment. (This is a GIL.)

95-0287 \$1.00 06/30/1995 Warning tail lights for installation on tractors qualify for the farm machinery and equipment exemption. (This is a GIL.)

## FOOD

95-0195 \$1.25 05/12/1995 This letter discusses the tax liabilities of a university dining facility which is open to the public and which allows students living in on-campus housing to utilizing a computerized declining-balance card system to pay for meals at the dining facility. (This is a PLR.)

95-0223 \$1.00 05/26/1995 Five-gallon bottles of water sold to businesses and individuals for consumption, (not for resale) are subject to the low, 1%, rate of tax. (This is a GIL.)

## GROSS RECEIPTS

95-0192 \$1.00 04/03/1995 The sale of telephones is subject to Retailers' Occupation Tax based upon the gross receipts. (This is a GIL.)

## LEASING

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95-0181 \$1.25 04/05/1995 Lessors are deemed to be the users of the tangible personal property which they hold for rental purposes. For that reason, lessors in Illinois incur Use Tax liability based on their cost price of items purchased for rental purposes. Tax-exempt organizations that purchase tangible personal property which they subsequently lease to taxable organizations, however, do not incur Use Tax. (This is a GIL.)

95-0239 \$1.25 05/30/1995 In Illinois, lessors of tangible personal property under true leases are deemed to be the users of items held for lease purposes and incur a Use Tax liability on the cost price of those items. The exception is lessors of automobiles under lease terms of one year or less. (This is a GIL.)

95-0252 \$1.50 06/02/1995 This letter addresses several issues concerning motor vehicle leasing including sale/leaseback transactions, the rolling stock exemption, and the taxability of true leases. (This is a GIL.)

95-0260 \$1.25 06/13/1995 Illinois will give a credit for taxes paid in another state in a true lease situation. In a situation governed by the Automobile Renting Occupation and Use Tax, there would be no credit for taxes previously paid. (This is a GIL.)

95-0272 \$1.25 06/26/1995 Discusses the tax treatment of leases under Illinois law. (This is a GIL.)

95-0289 \$2.00 06/15/1995 This letter describes the tax consequences of a "Cross-Border Lease".

## LOCAL TAXES

95-0205 \$1.50 05/19/1995 For purposes of determining the applicability of local taxes, the location where the purchase order is accepted is the most important element in determining where a sale took place. The authority of a retailer to reimburse himself for local taxes creates a corresponding legal duty of the purchaser to pay such reimbursing amounts to the retailer if the retailer uses such reimbursing authority. (This is a GIL.)

95-0282 \$1.00 06/29/1995 In determining the applicability of a local tax, the location at which the purchase order is accepted determines the proper tax rate. (This is a GIL.)

## MANUFACTURING MACHINERY AND EQUIPMENT

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95-0164 \$1.25 04/21/1995 Baking equipment which falls within the definition of equipment set forth in Section 2-45 of the Retailers' Occupation Tax qualifies for the manufacturing machinery and equipment exemption, if it is used primarily in an exempt manner. Use in the preparation of food for immediate consumption does not qualify. (This is a GIL.)

95-0168 \$1.50 04/19/1995 Bobcat vehicles qualify for the manufacturing machinery & equipment exemption as long as they are primarily used in the sorting process of materials and to transport the sorted materials within production stations on a production line. Conveyor systems used to transport materials from an initial sorting process to another station on a production line also qualify for the exemption. (This is a GIL.)

95-0172 \$2.00 04/17/1995 Catalysts used in "catalytic cracking" and "catalytic reforming" can qualify for the Manufacturing Machinery & Equipment exemption. (This is a GIL.)

95-0189 \$1.00 04/06/1995 The Manufacturing Machinery and Equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. (This is a GIL.)

95-0207 \$2.25 05/22/1995 Catalysts used in "catalytic cracking" and "catalytic reforming" can qualify for the Manufacturing Machinery and Equipment exemption. (This is a PLR.)

95-0226 \$1.00 05/26/1995 Machinery and equipment used in a direct on-line sawmill manufacturing operation can qualify for the Manufacturing Machinery and Equipment exemption. (This is a GIL.)

95-0279 \$1.50 06/29/1995 The Manufacturing Machinery and Equipment exemption provides that manufacturing includes photoprocessing if the products of photoprocessing are sold. (This is a GIL.)

95-0285 \$1.00 06/30/1995 Cleaning solvent used to clean manufactured parts as they come off the assembly line does not qualify for the manufacturing machinery and equipment exemption from tax, since it is a supply. (This is a GIL.)

## MEDICAL APPLIANCES

95-0186 \$1.25 04/06/1995 The definition of a medical appliance includes only those items which are intended by the manufacturer for use in

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directly substituting for a malfunctioning part of the body. Turn sheets are of great assistance to persons with various physical infirmities but they do not constitute medical appliances. They are not items which directly replace a malfunctioning part of the body, and as part of this replacement function, are physically associated with a person at all times. They are used to assist the caretaker in moving the patient. Therefore, they do not qualify for the low rate. (This is a GIL.)

95-0193 \$1.00 05/04/1995 The Transcutaneous Electronic Nerve Stimulator (TENS) does not meet the definition of a medical appliance and does not qualify for the low rate of tax. (This is a GIL.)

95-0203 \$1.25 05/19/1995 This letter discusses several issues related to the taxation of medical appliances paid in part by Medicare/Medicaid, and the rate of tax for medical appliances sold to health care professionals. (This is a GIL.)

95-0247 \$1.00 03/03/1995 This letter clarifies that oxygen tanks and oxygen carts that allow for patient mobility qualify for the low rate of tax. Saline irrigation solutions also qualify for the low rate of tax. (This is a GIL.)

95-0257 \$1.00 06/09/1995 The Department's position is that incontinent adult diapers/incontinent undergarments are items which directly substitute for a malfunctioning part of the body, the bladder. Therefore, these items qualify for the low rate of tax. (This is a GIL.)

## MISCELLANEOUS

95-0171 \$1.25 04/19/1995 Home rule municipalities are not preempted by the Illinois Municipal Code from imposing a per gallon tax on sales of motor fuel. (This is a GIL.)

95-0182 \$1.25 04/05/1995 This letter discusses the application of Retailers' Occupation, Service Occupation and Use Taxes to an aircraft services agreement. (This is a GIL.)

95-0198 \$1.00 05/12/1995 If a United States Bankruptcy Court has issued an Order of Discharge discharging a Retailers' Occupation Tax claim, the tax liability is discharged. (This is a GIL.)

95-0204 \$1.00 05/19/1995 The Department has no authority to waive tax liabilities that arise prior to a taxpayer's registration. However, the Board of Appeals administers a voluntary disclosure



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program which provides for limited liabilities. (This is a GIL.)

95-0212  
\$1.00

05/23/1995 Response to survey.

95-0221  
\$1.00

05/25/1995 Request for regulations governing private letter rulings. (This is a GIL.)

95-0225  
\$1.25

05/26/1995 Under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, frequently referred to as the "Circuit Breaker" Act, the Circuit Breaker section of the Department requests that checks issued to claimants who have died after filing, be returned. If there are qualifying survivors, the funds will be disbursed to them upon the receipt of appropriate documentation. If there are no qualifying survivors, the funds will escheat to the State. This is a GIL.)

95-0238  
\$1.25

05/30/1995 This letter explains the rules for drop shipments and exports. (This is a GIL.)

95-0256  
\$1.75

06/09/1995 This letter discusses sales for resale, sales at retail and seller's acceptance of purchase order.

95-0258  
\$1.50

06/13/1995 This letter describes the manner in which an agency agreement operates. (This is a GIL.)

95-0259  
\$1.25

06/13/1995 The Tax Increment Allocation Redevelopment Act provides that when redevelopment project costs have been paid, all surplus funds then remaining in the special tax allocation fund shall be distributed by being paid by the municipal treasurer to the Department of Revenue, the municipality and the county collector. (This is a GIL.)

95-0265  
\$1.00

06/21/1995 The Department does not have authority to abate penalty and interest. (This is a GIL.)

95-0271  
\$1.00

06/26/1995 Only the Board of Appeals has the authority to abate penalty and interest. (This is a GIL.)

95-0274  
\$1.25

06/27/1995 Review of a publication. (This is a GIL.)

95-0278  
\$1.25

06/29/1995 This letter responds to questions regarding purchases of tangible personal property from an out-of-state supplier, occasional sales, and interstate commerce. (This is a GIL.)

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## MOTOR FUEL TAX

95-0177  
\$1.25

04/03/1995 Under the Motor Fuel Tax laws, the Department of Revenue may request information which it deems necessary before it will grant an application for a bulk user's license. (This is a GIL.)

95-0180  
\$1.00

04/05/1995 Under Illinois law, special fuel used off-highway, whether in vehicles licensed for highway use or not licensed for highway use, is not subject to Motor Fuel Tax. (This is a GIL.)

95-0190  
\$1.00

04/10/1995 This letter distinguishes retailers of motor fuel from distributors, receivers or suppliers. (This is a GIL.)

95-0230  
\$1.25

05/26/1995 Section 6 of the Motor Fuel Tax Law provides that a distributor who sells or distributes any motor fuel...shall collect at the time of such sale and distribution, the amount of tax imposed under this Act on all such motor fuel sold and distributed." However, that Section also provides that a distributor may make tax-free sales of motor fuel "when the sale is made to a person holding a valid unrevoked license as a distributor, by making a specific notation thereof on invoices or sales slips covering each sale." Therefore, an Illinois automobile dealer may make tax-free purchases of motor fuel from an Illinois distributor if the dealer applies for and receives a distributor's license. (This is a GIL.)

95-0275  
\$1.00

06/29/1995 The Motor Fuel Tax is imposed on the privilege of operating motor vehicles upon the public highways and recreational water craft upon the waters of this State. No provision for exemption from the tax has been made for exclusively charitable, religious, or educational organizations. (This is a GIL.)

## MOTOR VEHICLES

95-0250  
\$1.00

06/01/1995 This letter discusses sales tax on the purchase of a motor vehicle where the manufacturer offers a 5% discount plan for employees and their families. (This is a GIL.)

## NEWSPRINT AND INK

95-0273  
\$1.50

06/26/1995 In making the determination as to whether a publication qualifies as a magazine for purposes of exemption from Retailers' Occupation Tax, there is one test that must be

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met and several other factors that will be considered. To qualify as a magazine, the publication must meet the periodicity requirement; the publication must be issued at least twice a year. After this requirement is met, the additional characteristics to be considered are whether the publication can be subscribed to, whether the publication contains articles or items of general interest, whether the content includes general advertising, and whether the publication has the format of a magazine, including a soft cover, individual pages, and an index. (This is a GIL.)

## NEXUS

95-0161 04/25/1995 An out-of-state retailer is considered to be a  
\$1.25 "retailer maintaining a place of business in Illinois" when he has the requisite nexus with Illinois. It must be shown that the retailer has a physical presence in the taxing state. This type of retailer is required to register with the Department as an Illinois Use Tax collector. (This is a GIL.)

95-0166 04/21/1995 This letter describes the types of activities, as  
\$1.25 explained in Section 150.201(i) and clarified by the Quill decision, in which an out-of-state seller must engage in order to incur Illinois sales tax liability. (This is a GIL.)

95-0215 05/23/1995 An out-of-state retailer is considered to be a  
\$1.75 "retailer maintaining a place of business in Illinois" when he has the requisite nexus with Illinois. It must be shown that the retailer has a physical presence in the taxing state. This type of retailer is required to register with the Department as an Illinois Use Tax collector. (This is a GIL.)

95-0231 05/26/1995 This letter discusses the circumstances involving an  
\$1.25 out-of-state retailer, under the principles found in Quill v. North Dakota, who will be required to register and collect and remit Use Tax on his Illinois sales. (This is a GIL.)

## NONPROFIT INSTITUTIONS

95-0240 05/30/1995 Organizations that have been determined by the  
\$1.25 Department to qualify for tax exempt status may hold two nontaxable fund raising events per year. (This is a GIL.)

## PENALTIES

95-0218 05/24/1995 Interest shall accrue on the tax portion of a

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95-0219 responsible officer penalty liability in the same manner and  
\$1.00 amount as the tax unpaid by the corporation. (This is a GIL.)

95-0219 05/24/1995 The amount of a personal penalty liability is equal  
\$1.00 to the total amount of tax unpaid by the corporation, including interest and penalties. (This is a GIL.)

## POLLUTION CONTROL FACILITIES

95-0255 06/07/1995 Tools which are used to build a containment area do  
\$1.50 not qualify for the pollution control facilities exemption while tools which remove the asbestos can qualify for the pollution control facilities exemption. Air sampling equipment that actually activates a system that reduces pollution in a containment area will qualify for the pollution control facilities exemption. (This is a GIL.)

95-0264 06/21/1995 "Pollution control facilities" is defined at 86 Ill.  
\$1.25 Adm. Code 130.335. (This is a GIL.)

95-0266 06/26/1995 A waste compactor that has a deodorizer can qualify  
\$1.00 for the pollution control exemption. A baler with a deodorizer may qualify if it is used for the elimination, prevention or reduction of pollution; however, it may not, if it is used in a recycling process. (This is a GIL.)

95-0277 06/29/1995 Sales of pollution control facilities are exempt from  
\$1.25 Retailers' Occupation Tax. Monitoring wells that do not prevent, reduce, or eliminate pollution, nor treat, pretreat, modify, or dispose of any potential pollutant would not qualify as pollution control facilities as defined in Section 130.335 and would not qualify for the exemption. (This is a GIL.)

95-0284 06/30/1995 Air filters, which have as their primary function the  
\$1.00 removal of pollutants from the air, qualify for the pollution control facilities exemption even if sold for residential or commercial purposes. (This is a GIL.)

## PUBLIC UTILITY TAXES

95-0213 05/23/1995 Where a retail seller of natural gas either accepts  
\$1.25 purchase orders in Illinois or sells natural gas which is located in Illinois at the time of sale, Gas Revenue Tax liability is incurred. (This is a GIL.)

95-0246 05/30/1995 The Gas Revenue Tax is imposed upon persons engaged

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95-0263  
SL.25 in the business in Illinois of distributing, supplying, furnishing or selling gas to persons for use or consumption and not for resale. The location where transfer of title to the gas occurs is not the determinative factor in whether the tax is applicable. If a business accepts purchase orders for gas in Illinois, it is engaged in the business in Illinois of distributing, supplying, furnishing or selling gas to persons for use or consumption and not for resale and is subject to the Gas Revenue Tax. (This is a GIL.)

## RETURNS

95-0263  
SL.25 06/16/1995 This letter explains the circumstances under which retailers who engage in selling on their premises and also lease those premises to others, who engage in selling upon those premises, are required to file returns with the Department for those sellers. (This is a GIL.)

## ROLLING STOCK EXEMPTION

95-0199  
SL.25 05/17/1995 Buses used to transport people between airport parking lots and "People Movers" or trams do not qualify for the Rolling Stock Exemption. (This is a GIL.)

95-0242  
SL.25 05/30/1995 To document the rolling stock exemption, the purchaser should give the seller a certification that the purchaser is an interstate carrier for hire and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. (This is a GIL.)

## SALE AT RETAIL

95-0163  
SL.25 04/21/1995 An academy acts as a retailer when it transfers tangible personal property, such as books and supplies, to its customers and incurs a Retailers' Occupation Tax liability. (This is a GIL.)

## SALE FOR RESALE

95-0175  
SL.25 04/11/1995 The sale of containers, as defined in Section 130.2070(a), is not subject to Retailers' Occupation Tax when the purchasers of such containers transfer to customers the ownership of the containers together with what is contained in them. Purchasers buying containers for this type of use are considered to be making tax-free purchases for resale purposes. (This is a GIL.)

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95-0224  
SL.25 05/19/1995 An out-of-State vendor not currently registered with the Illinois Department of Revenue is not authorized to collect Illinois Use Tax from its customers and its customers do not need to provide the out-of-State vendor with documentation that the purchase is a purchase for resale. (This is a GIL.)

95-0248  
SL.50 06/01/1995 This letter rescinds a prior 1978 letter regarding serving equipment that may be purchased for resale or for use in lieu of more durable serving equipment, taxability of coupon sales, buy one - get one free sales, and the sale of promotional merchandise. (This is a GIL.)

95-0249  
SL.25 06/01/1995 In a drop shipment situation, the purchaser must provide the seller with a Certificate of Resale documenting the fact that the sale to the purchaser (with delivery in Illinois) is a sale for resale. While a registration/resale number on a Certificate of Resale is preferred, the purchaser can also provide "other evidence" on the resale certificate that the sale was for resale. (This is a GIL.)

95-0268  
SL.25 06/26/1995 In a drop shipment situation, the purchaser must provide the seller with a Certificate of Resale documenting the fact that the sale to purchaser (with delivery in Illinois) is a sale for resale. While a registration/resale number on a Certificate of Resale is preferred, the purchaser can also provide "other evidence" on the resale certificate that the sale was for resale. (This is a GIL.)

## SALE OF SERVICE

95-0169  
SL.75 04/19/1995 A serviceman may calculate his or her tax base in one of four ways: (1) separately stated selling price of tangible personal property transferred incident to service; (2) 50% of the serviceman's entire bill; (3) Service Occupation Tax on the serviceman's cost price if the serviceman is a registered de minimus serviceman; or (4) Use Tax on the serviceman's cost price if the serviceman is de minimus and is not otherwise required to be registered under the Retailers' Occupation Tax Act. (This is a GIL.)

95-0173  
SL.25 04/17/1995 A serviceman may calculate his tax base in one of four ways: 1. separately stated selling price; 2. 50% of serviceman's entire bill; 3. SOT on his cost price if he is a registered de minimus serviceman; or, 4. Use Tax on his cost price if he is an unregistered de minimus serviceman. (This is a GIL.)



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GIL.)

95-0187  
\$1.25

04/06/1995 Purchases of tangible personal property such as plaques and awards, which have intrinsic usefulness and general utility and are personalized for the purchaser by the seller through engraving, are subject to Retailers' Occupation Tax. However, items that are personalized and do not have intrinsic value to persons other than the purchaser, such as business cards or letterhead stationery, are not subject to the Retailers' Occupation Tax but rather the Service Occupation Tax. If the seller and the customer have a separate agreement for the engraving services, as evidenced by either a separate contract or an invoice that lists the engraving charges separately and is signed by the customer, the engraving charges are not subject to Retailers' Occupation Tax. (This is a GIL.)

95-0197  
\$2.00

05/11/1995 Sales of items which have no intrinsic usefulness or commercial value to other customers are not subject to Retailers' Occupation Tax. This situation is properly characterized as sale of service. A serviceman is taxed on tangible personal property transferred as an incident of the sale of service. A serviceman incurs either Service Occupation Tax liability or Use Tax liability in these transactions. His tax liability is dependent upon the method he uses to calculate his liability and he may calculate his tax base in one of four ways. (This is a GIL.)

95-0211  
\$1.50

05/23/1995 When a "de minimus" nursing home, which receives partial payment from Medicare/Medicaid, buys food, drugs and other items from a supplier, it can either provide its supplier with a blanket certificate of resale (everything is being purchased for resale purposes) and then self-assess and remit the tax due on the items not paid for by the government, or it can give the supplier a percentage certificate of resale and pay tax only on the amount of the purchase that is taxable. If it cannot provide such documentation, it must pay the supplier tax. To be able to buy items from the supplier tax-free for subsequent sale to the government, the nursing home must be registered under the Service Occupation Tax. (This is a GIL.)

95-0241  
\$1.25

05/30/1995 This letter describes the application of the Service Occupation Tax Act. (This is a GIL.)

95-0254  
\$1.50

06/05/1995 Sellers of personalized business calling cards, letterheads, envelopes, labels, name plates, badges, medallions and the like do not incur Retailers' Occupation Tax liability on their receipts from such sales because they are engaged in a

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service occupation in producing or procuring custom-ordered items that have no commercial value to others. (This is a GIL.)

## TELECOMMUNICATIONS EXCISE TAX

95-0170  
\$1.00

04/19/1995 When a municipality enacts the municipal telecommunications excise tax, 65 ILCS 5/8-11-17 (1992 State Bar Edition), it usually does so in its entirety. (This is a GIL.)

95-0191  
\$1.25

04/03/1995 The Telecommunications Excise Tax Act provides that if a person who originates or receives telecommunications in this State claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. 35 ILCS 625/8 (1992 State Bar Edition). Upon approval of the application, the Department shall assign a resale number to the applicant. (This is a GIL.)

95-0220  
\$2.00

05/25/1995 Persons who provide satellite television services, including basic network channels, premium channels, pay per view movies, sporting events, etc., are not subject to the Telecommunications Excise Tax. (This is a GIL.)

95-0244  
\$2.50

05/31/1995 This letter discusses the applicability of the Telecommunications Excise Tax to paging services. (This is a GIL.)

95-0288  
\$1.50

06/30/1995 86 Ill. Adm. Code Section 495.100(g) provides that gross receipts for burglar alarm services provided by telecommunications retailers are subject to the Tax. 86 Ill. Adm. Code Section 495.115 provides that Hotels that sell telecommunications to guests or other persons at retail are retailers of telecommunications. (This is a GIL.)

## TEMPORARY STORAGE

95-0162  
\$1.25

04/24/1995 The temporary storage exemption provides that no tax applies to the temporary storage, in this State, of tangible personal property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State. (This is a GIL.)

## TRADE-INS

95-0174  
\$1.50

04/12/1995 This letter discusses Advance Trade-Ins, pursuant to 86 Ill. Adm. Code 130.455. (This is a GIL.)

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95-0232 05/30/1995 Gross receipts from the sale of a vehicle may be reduced by the value of traded-in property of like kind and character, (i.e. another vehicle) but not by cash. See 86 Ill. Adm. Code 130.425. (This is a GIL.)

95-0243 05/31/1995 A dealer may not reduce his gross receipts by the value of or credit given for a traded-in motor vehicle where the trade-in vehicle was disposed of in a sales transaction predating the trade but was not identified by contract or written agreement as an advance trade-in vehicle as required in 86 Ill. Adm. Code 130.455(d). (This is a GIL.)

## USE TAX

95-0185 04/06/1995 A donor of cellular phones is the end user of the phones and is subject to Use Tax on the cost price of the phones. The donor cannot charge a customer a "Use Tax" because the customer does not incur a legal obligation to pay any tax. However, there is nothing that would prohibit the donor from entering into a contract which requires the customer to reimburse the donor for its Use Tax liability. The donor must be careful not to call such charge a tax, since the donor has no legal authority to collect a tax from the customer. (This is a GIL.)

95-0228 05/26/1995 A purchaser of tangible personal property that is required to be registered with the Secretary of State incurs Use Tax on the purchase even if an exempt organization is listed as a co-owner. (This is a GIL.)

95-0251 06/02/1995 This letter discusses different ways to account for sales tax when selling or giving away cellular phones. (This is a GIL.)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 29, 1995 through September 4, 1995 and have been scheduled for review by the Committee at its September 12, 1995 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

| Second Notice Expires | Agency and Rule   | Start of First Notice      | JCAR Meeting |
|-----------------------|---|----------------------------|--------------|
| 10/12/95              | Department of Central Management Services, State Vehicles and Garage (44 Ill Adm Code 5040) | 7/14/95<br>19 Ill Reg 9365 | 9/12/95      |
| 10/12/95              | Illinois Racing Board, Procedures for License Hearings (11 Ill Adm Code 205)                | 6/30/95<br>19 Ill Reg 8561 | 9/12/95      |
| 10/13/95              | Illinois Racing Board, Definitions (11 Ill Adm Code 210)                                    | 7/7/95<br>19 Ill Reg 8956  | 9/12/95      |
| 10/13/95              | Illinois Racing Board, Pari-Mutuels (11 Ill Adm Code 300)                                   | 7/7/95<br>19 Ill Reg 9002  | 9/12/95      |
| 10/13/95              | Illinois Racing Board, Repeal of PPT Rules (11 Ill Adm Code 418)                            | 7/7/95<br>19 Ill Reg 9016  | 9/12/95      |
| 10/13/95              | Illinois Racing Board, Simulcast Requirements (11 Ill Adm Code 322)                         | 7/7/95<br>19 Ill Reg 9029  | 9/12/95      |
| 10/13/95              | Illinois Racing Board, Repeal of Pari-Mutuels (11 Ill Adm Code 405)                         | 7/7/95<br>19 Ill Reg 8993  | 9/12/95      |
| 10/13/95              | Illinois Racing Board, Repeal of Over/Under Rules (11 Ill Adm Code 419)                     | 7/7/95<br>19 Ill Reg 8989  | 9/12/95      |

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

|          |  |                              |         |
|----------|--|------------------------------|---------|
| 10/13/95 | Illinois Racing Board, Totalizator Operations (11 Ill Adm Code 433)                  | 7/7/95<br>19 Ill Reg<br>9051 | 9/12/95 |
| 10/13/95 | Illinois Racing Board, Inter-Track Wagering Facilities (11 Ill Adm Code 435)         | 7/7/95<br>19 Ill Reg<br>8981 | 9/12/95 |
| 10/13/95 | Illinois Racing Board, Repeal of Double Trifecta Wagering Pool (11 Ill Adm Code 439) | 7/7/95<br>19 Ill Reg<br>8975 | 9/12/95 |



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**SECRETARY OF STATE**

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